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BORDER MANAGEMENT REORGANIZATION AND DRUG INTERDICTION

PREPARED FOR THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

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LETTER OF TRANSMITTAL

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC, June 7, 1988.

The PRESIDENT OF THE SENATE,
U.S. Senate,
Washington, DC.

DEAR MR. PRESIDENT: The Governmental Affairs Committee is pleased to publish a compendium of studies and papers concerning the drug problem and border management reorganization. Earlier this year, I requested that the Congressional Research Service (CRS) examine border management reorganization and related topics. The results are analyses of broad-scale border management reorganization proposals, past and present, a description of the splintered statutory, executive, and other authorities of the major enforcement agencies and drug smuggling data. In addition to its own studies and a lengthy bibliography, CRS surveyed efforts and proposals that have emerged throughout the 20th century to reorganize or consolidate border management agencies, coming from a number of Administrations, various Congressional sources, government agencies, consultants, and commissions. The final product—this Committee print—is a unique collection of studies of border management and proposals to reorganize it during this century.

This study was requested with full realization that the problem of drug abuse in America must ultimately be solved through the reduction of demand, that is, through education of our people to the dangers of drug use. Nonetheless, it is clear that a comprehensive strategy for success against drugs also requires efforts at source country eradication of drugs, traditional law enforcement against traffickers, and interdiction of drugs intended to be smuggled into the United States. It is the latter component of the total effort that is addressed by these papers.

This collection of old and new studies will be useful for the Senate Governmental Affairs Committee, with jurisdiction over the organization and reorganization of the executive branch and broad oversight authority to study the efficiency, economy, and effectiveness of all agencies and departments of the Government (Senate Rule XXV(k) (1) and (2)). Beyond this Committee, the studies and materials will also be of use to a much wider audience: to other Senate committees with authorization or appropriation jurisdiction over agencies involved in border management, to our counterparts in the House of Representatives, to the agencies themselves, and to the Executive Office of the President, where some major proposals have been generated over the years.

I am very grateful to the members of the Congressional Research Service (CRS) staff, particularly Frederick M. Kaiser and Harry L. Hogan, specialists in American National Government; Elizabeth B. Bazan and Lou Ann Fields, attorneys in American Law; and Elizabeth Lane, Bibliographer in Government and American Law, for their efforts on this project.

Sincerely,

JOHN GLENN,
Chairman.

LETTER OF SUBMITTAL

Congressional Research Service,
The Library of Congress,
Washington, DC, May 5, 1988.

Hon. John Glenn,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: In response to the Committee's request, I am submitting a CRS report and an appendix (of existing studies and recommendations) dealing with border management reorganization.

The report consists of four parts: (1) an analysis of broad-scale border management reorganization proposals, prepared by Frederick M. Kaiser, Specialist in American National Government; (2) an analysis of the authority of border management agencies, prepared by Elizabeth B. Bazan and Lou Ann Fields, Attorneys in American Law; (3) an overview of data on drug smuggling, prepared by Harry L. Hogan, Specialist in American National Government; and (4) a selective bibliography on border management reorganization, prepared by Elizabeth Lane, Bibliographer in Government and American Law. The appendix consists of excerpts from relevant studies and recommendations emerging since 1912 from the executive branch, various governmental study commissions, Congress, its committees and support agencies, and outside sources. The collection was compiled by Mr. Kaiser, who also coordinated the project.

Sincerely,

Joseph E. Ross,
Director.

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BORDER MANAGEMENT REORGANIZATION

Frederick M. Kaiser
Specialist in American National Government
Government Division

May 4, 1988

(1)

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I. INTRODUCTION

During the past six decades, concerns have arisen periodically over the ability of the national government to manage and control United States borders. These concerns have been prompted, at different times, by a rising tide of illegal immigration or illicit drugs from abroad (alcohol during Prohibition and narcotics currently), along with frustration over inadequate border interdiction programs designed to combat smuggling. The already demanding challenge of enforcing Federal laws along thousands of miles of borders has been made even more difficult, according to critics of ongoing efforts, by fragmented authority, overlap and duplication of jurisdiction, interagency rivalry, and other impediments to coordination and cooperation among the numerous agencies involved. Presently, for instance, seven agencies in six different departments hold responsibility for border management and control, led by the Customs Service in the Treasury Department, U.S. Coast Guard, formerly in Treasury and now in the Transportation Department, and the Immigration and Naturalization Service, now in the Justice Deparment.

Broad-scale reorganizations--designed to make border control and management more effective, economical, and efficient--have been proposed over the years to rectify this set of problems and improve law enforcement efforts. 1/ The various plans have called for transferring authority, jurisdiction, and personnel among affected agencies; unifying parts of the agencies, such as the

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1/ The many recommendations for broad-scale and narrow reorganizations and their rationales are included in the Appendix; selective ones, fully cited below, are examined in this report.

border patrols; or merging entire agencies into a new organization. Major efforts in this direction date to a 1930 proposal from President Hoover to unify the border patrols. Similar proposals remain a part of the contemporary scene. Indeed, legislation has been introduced in the 100th Congress to merge several agencies into a new Office of Enforcement and Border Affairs in the Treasury Department. In the interim, numerous treks along similar paths have been advanced by a variety of sources: the executive, from both Republican and Democratic Administrations as well as from the executive agencies themselves; government commissions; Members, panels, and support agencies of Congress; private associations; and public policy analysts outside the government.

Controversies and disagreements, however, have erupted over specific proposals. And despite persistent and sometimes intense, high level support for a particular recommendation, no broad-scale reorganization plan has yet been approved by Congress.

This report examines broad-scale reorganization proposals for border management that have been offered over the past six decades. (It does not include, however, the narrower consolidation proposals for port-of-entry inspection operations, unless they are tied directly into broader reorganizations.) For each case, the study looks at the recommendation and its basic characteristics, rationale, and any evident opposition and controversy.

II. UNIFIED BORDER PATROL PLANS FROM PRESIDENT HOOVER

In 1930 and again in 1932, President Herbert Hoover proposed to unify the three Federal patrols operating along U.S. borders. Both plans involved the same organizations: The border patrols of the Immigration Bureau, then in the Labor Department, and of the Customs Bureau in the Treasury Department, would be placed under the Coast Guard, then also in the Treasury Department.

Both plans were justified along similar lines: They would improve the Federal Government's efforts to combat illegal immigration, narcotics smuggling, and illegal imports of alcohol, then banned by Prohibition. And both plans met the same end: They failed to gain congressional approval, although the 1930 proposal did pass the House.

A. 1930 Unified Border Patrol Proposal

Shortly after taking office, President Hoover raised the prospect of a unified border patrol as a way to combat the serious problems of illegal immigration, narcotics smuggling, and, especially, violations of Prohibition's ban on illicit alcohol imports. 2/ Specifically, he called for unifying the border patrols of the Immigration Bureau and Customs Bureau under the Coast Guard, a plan endorsed by the Treasury Department, which would house the new organization.

President Hoover gave the merger high priority. In his 1929 State of the Union Address, he emphasized "the desirability of reorganizing the various services engaged in the prevention of smuggling into one border patrol under the Coast Guard." 3/ This was one of a series of recommendations to "be developed after further examination by the Law Enforcement Commission," 4/ a blue-ribbon commission, chaired by former Attorney General George W. Wickersham.

2/ U.S. President. Herbert Hoover, 1929-1933. State of the Union Address. Public Papers of the Presidents: Herbert Hoover, 1929. Washington, U.S. Govt. Print. Off., 1974. p. 433; and Proposals To Improve Enforcement of Criminal Laws of the United States: Message from the President (Containing the Preliminary Report of the National Commission on Law Observance and Enforcement, the Wickersham Commission, and Supplemental Reports). Washington, U.S. Govt. Print. Off., 1930. p. 25-27.

3/ Hoover, State of the Union Address, p. 433.

4/ Ibid.

As it turned out, however, the Wickersham Commission did not endorse the President's specific proposal for a unified border patrol, although it considered a variety of programs for "better organization of enforcing agencies." 5/ The Commission also rejected two other approaches to improve interagency coordination and border control: i.e., a special secretary to the President to improve coordination among the enforcement agencies, which the Commission saw as increasing the burdens of the Chief Executive, and a unified federal police force, which was considered antithetical to U.S. democratic traditions. 6/

Before the Wickersham Commission released its final report, in January of 1931, the House Interstate and Foreign Commerce Committee considered legislation to create a unified border patrol. The Committee recommended that a unified border patrol be approved, but only after the original version of the proposal was amended. 7/ Instead of placing the Customs and Immigration patrols directly under the Coast Guard, as the President had recommended, the Committee proposed that the Assistant Secretary of the Treasury having general supervision for the Coast Guard be responsible for the unified patrol. This arrangement, the panel reasoned, would avoid "the very serious practical difficulties" that might arise from placing land-based patrols under a "sea service" and "military

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5/ U.S. National Commission on Law Observance and Enforcement. Report on the Enforcement of the Prohibition Laws of the United States. Washington, U.S Govt. Print. Off., 1931. p. 63-64 and 83-84.

6/ Ibid.

7/ U.S. Congress. House. Committee on Interstate and Foreign Commerce. United States Border Patrol. House Report No. 71-1828, 71st Cong., 2d Sess. Washington, U.S. Govt. Print. Off., 1930. p. 1.

organization," as the Coast Guard was characterized. 8/ Even with this change, the Committee endorsed the principle advanced by the Hoover Administration: that was to consolidate all the border patrols in the same executive organization, in order to "form a unity both in theory and administration." 9/

Chances for passage seemed high because of the President's visible and intense commitment to the proposal, his party's control of both chambers of Congress, official endorsement by the affected departments and agencies, and the favorable report from the House Interstate and Foreign Commerce Committee. The House approved the amended version on July 1, 1930. 10/ But the plan died when the Senate failed to act on it.

Despite the House's approval, some Representatives questioned the merits of the proposal and its expected impact on agencies and personnel affected by the transfers. Several Members criticized the central role of the Coast Guard in the original plan, while others objected to the probable expansion of an "armed barrier of a military nature along this otherwise peaceful frontier," referring to the United States-Canadian border. 11/ Also, Customs and Immigration personnel as well as the American Federation of Labor opposed certain features of the bill, particularly those that might adversely affect the civil service status and benefits of the individuals transferred to another agency. 12/ President Hoover anticipated such a reaction from agencies and organizations that might see their interests adversely affected. In his

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8/ Ibid., p. 3.

9/ Ibid., p. 9.

10/ Congressional Record, v. 72, June 30, 1930. p. 12237.

11/ Ibid., p. 12218-12220.

December 1929 State of the Union speech, which first raised the idea of a unified border patrol, he condemned the automatic opposition to planned reorganizations from "every official whose authority may be curtailed;" from "bureaus and departments which wish to maintain their authority and activities;" and from "citizens and their organizations who are selfishly interested, or who are inspired by fear that their favorite bureau may, in a new setting, be less subject to their influence." 13/

Other objections to a proposed unification were raised later. Arthur Millspaugh, in his 1937 seminal study of Crime Control by the National Government, emphasized that separating the law enforcement function of the border patrols from Immigration and Customs would end only the appearance of duplication. 14/ Furthermore, he argued, the separation would prove counterproductive to the remaining activities and responsibilities of these agencies and their parent departments. That was because the Customs and Immigration border patrols, in Millspaugh's analysis, were examples of "auxiliary" law enforcement; they were closely related to and grew logically out of the primary duties and responsibilities of their parent agencies, such as Customs collecting import duties or Immigration processing incoming travelers.

12/ Ibid.

13/ Public Papers of the Presidents: Herbert Hoover, 1929. p. 431.

14/ Arthur C. Millspaugh. Crime Control by the National Government. Washington, Brookings Institution, 1937. p. 194-203. Millspaugh was also a principal Brookings Institution researcher for its 1937 report for the Byrd Committee on Federal government law enforcement agencies and operations. That report, which examined a variety of reorganization proposals, specifically rejected the transfer of the Immigration and Customs border patrols to another agency. U.S. Congress. Senate. Select Committee To Investigate the Executive Agencies of the Government. Investigation of Executive Agencies of the Government. Senate Report No. 1275, 75th Cong., 1st Sess. Washington, U.S. Govt. Print. Off., 1937. p. 936-937.

From this perspective, transferring the border patrols alone (as opposed to transferring all of Immigration or Customs) would "damage the continuity and unity of operations" of the former agencies. 15/

B. 1932 Unified Border Patrol Proposal

Despite the failure to secure congressional passage of a unified border patrol plan in 1930, President Hoover reintroduced a nearly identical proposal two years later. It was one of eleven reorganization plans affecting 58 agencies that Hoover proposed during his final four months in office. 16/ The border patrol unfication plan was submitted, however, in the face of even greater political odds than its predecessor; indeed, all eleven plans were defeated by the Democratic House, in this first exercise of the legislative veto. 17/ By December 9, 1932, when the plan was submitted, President Hoover had already lost reelection, and in a decisive fashion. Moreover, the Republican Party had control of only one chamber of Congress, the Senate; and it would become Democratic when the 72d Congress convened the following March.

Nonetheless, at the time, Hoover was operating under new statutory powers, enacted in the midst of the Great Depression, giving the President authority to reorganize executive branch agencies. He could submit plans to Congress,

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15/ Millspaugh, Crime Control, p. 200-201.

16/ Message from the President: Reorganization and Consolidation of Executive Functions. In: Congressional Record, v. 76, 1932-1933. p. 233-252.

17/ Congressional Record, v. 76, 1932-1933. p. 2110-2115. The reorganization plans were subject to a legislative veto; in this case, either the House or the Senate could disapprove a specific plan within sixty days. P.L. 72-314; 47 Stat. 413-414. Fifty years later, in 1983, the Supreme Court declared the legislative veto unconstitutional in Immigration and Naturalization Service v. Chadha, 103 S. Ct. 2767 (1983).

which would become effective after sixty days unless either house disapproved them, reorganizing executive branch departments and agencies in order to "reduce expenditures and increase efficiences in government." 18/ Such plans could be used to consolidate or group executive agencies "according to major purpose," to reduce the number of agencies by "consolidating those having similar functions under a single head," and to "eliminate overlapping and duplication of effort." 19/

In compliance with these prescribed purposes, President Hoover justified the border patrol unification plan on the grounds of improved economy and efficiency. 20/ Some opponents in Congress, however, questioned whether any cost savings would actually result from the reorganization, since it repeated the 1930 proposal which was justified on grounds of improve effectiveness and not of increased economy and efficiency. 21/

The 1932 border patrol unification mirrored the Administration's 1930 version; it placed the Customs and Immigration border patrols directly under the Coast Guard, rather than housing all three entities under an Assistant Secretary of the Treasury. Consequently, the resubmitted proposal differed from the amended version that had been approved by the House Interstate and Foreign Commerce Committee and the full House two years before.

The Hoover Administration's reorganization plans were attempts to improve enforcement of Prohibition and other laws during the Great Depression. An

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18/ P.L. 72-314; 47 Stat. 413.

19/ Ibid.

20/ Message from the President, in: Congressional Record, v. 76, 1932-1933, p. 251-252.

21/ Ibid., pp. 2110-2115.

entirely different set of circumstances surrounded another broad-scale reorganization proposal in the late 1940s.

III. CUSTOMS MANAGEMENT IMPROVEMENT STUDY, 1948

In 1948, the Customs Bureau commissioned a management consultant firm, McKinsey and Company, to conduct a management survey of the Bureau's operations and make recommendations for improvement. [22] The nine-volume study assessed enforcement and investigation activities, including border management, and extended to Customs relations with other border enforcement agencies.

Because of different conditions and situations, the report noted patrol responsibilities differed markedly between the northern Canadian border and the southern Mexican border. The southern border was seen as the most troublesome, because of its terrain and the amount and type of smuggling, particularly of narcotics. According to McKinsey and Company, the Mexican border was "undoubtedly the most important and active narcotics-smuggling area of all . . . There is a more or less continuous stream of these narcotics from Mexico." [23]

McKinsey and Company, in addition to recommending certain improvements for Customs own internal organization for border patrolling, also proposed that the Bureau "initiate action which will eventually organize and develop a combined Federal border enforcement agency." [24] This was justified in terms of greater economy and efficiency of operations and reduced duplication of work. Because the reorganization would require a "Government-wide viewpoint" and affect at least four agencies, McKinsey and Company called for "some wholly disinterested group, such as the Bureau of the Budget" to undertake a study that would lead to legislative changes. 25/ The report concluded that there was "no reason why Customs patrolling could not be handled by a unified border patrol equipped to handle all patrolling duties." 26/

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[22] McKinsey and Company. Management Survey of the Bureau of Customs, Department of the Treasury. Washington, 1948. [Available from the U.S. Customs Service].

[23] Ibid., VII. Protection, Investigation and Enforcement, p. VII-25.

[24] Ibid., p. VII-27.

Although the study and recommendations contributed to internal management improvements in the Customs Bureau, it did not result in the combined border enforcement agency McKinsey and Company advanced. Twenty-five years later, another opportunity for a major reorganization presented itself.

IV. REORGANIZATION PLAN NO. 2 OF 1973 AND ITS AFTERMATH

The primary purpose of President Richard Nixon's Reorganization Plan No. 2 of 1973 27/ was to consolidate Federal anti-drug activities into a new Drug Enforcement Administration (DEA), housed in the Department of Justice, and to establish a "unified command for drug enforcement." This reorganization was to

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25/ Ibid.

26/ Ibid.

27/ U.S. President. Richard M. Nixon, 1969-1974. Federal Drug Law Enforcement: Message from the President. In: Congressional Record, v. 119, 1973. p. 9931. For background on the reorganization, its intent, the political maneuvering behind it, and the ramifications, see ibid., p. 18465-18499; U.S. Congress. Senate. Committee on Government Operations. Amending Reorganization Plan No. 2 of 1973. Senate Report No. 93-588, 93d Congress, 1st Session. Washington, U.S. Govt. Print. Off., 1973. p. 1-2; U.S. Congress. House. Committee on Government Operations. Amending Reorganization Plan No. 2 of 1973; Report to Accompany H.R. 8245. House Report No. 93-303, 93d Congress, 1st Session. Washington, U.S. Govt. Print. Off., 1973. p. 1-2; Congressional Quarterly Almanac, 1973, v. XXIX, p. 730-733; Patricia Rachael. Federal Narcotics Enforcement: Reorganization and Reform. Boston, Auburn House Publishing Co., 1982. p. 53-159; and Frederick M. Kaiser. Federal Law Enforcement: Structure and Reorganization. Criminal Justice Quarterly, v. 5, Fall 1980. p. 105-106.

be accomplished, in part, through a transfer of Customs Service personnel and authority (for anti-drug investigation and intelligence) to the new DEA. 28/

The Plan also called for a transfer of personnel, jurisdiction, and authority from the Immigration and Naturalization Service in Justice to Customs. This second part of the Plan, which would have offset Customs' loss to DEA, was designed to consolidate port-of-entry inspections with Customs. If implemented, it might have served as the basis for a broad-scale reorganization of border management operations. But intense opposition to the INS transfer and other conflicts over the Reorganization Plan prevented that; indeed, the Nixon Administration pledged not to implement this part of the Plan and Congress officially overrode it the next year.

President Nixon justified the proposed INS transfer and Customs' expanded authority on the grounds of improved economy and efficiency and as an means to end overlap and duplication affecting the two services. In his message to Congress accompanying the Plan, he argued that the change "would reduce the need for much day-to-day interdepartmental coordination, allow more efficient staffing at some field locations, and remove the basis for damaging interagency rivalries." 29/

28/ Reorganization Plan No. 2 of 1973; 87 Stat. 1091-1094. At about the same time, both the General Accounting Office and the Bureau of the Budget called for consolidating port-of-entry inspections in a single agency. U.S. General Accounting Office. A Single Agency Needed To Manage Port-of-Entry Inspections--Particularly at U.S. Airports. Report B-114898, May 30, 1973. Washington, 1973; and U.S. Executive Office of the President. Bureau of the Budget. Interagency Report on Inspection at Ports of Entry. Washington, Bureau of the Budget, 1968.

29/ President Nixon, Reorganization Plan No. 2, in Congressional Record, v. 119, p. 9332.

The part of the Plan consolidating inspection power in Customs, however, was strongly opposed by the Immigration inspectors, labor unions representing INS employees, and Members of Congress. Some critics objected to the Plan's perceived adverse impact on INS, its employees, and control of illegal immigration, if INS would lose nearly 1,000 positions to Customs. Other critics focused on the the process that led to this particular reorganization plan. The House Government Operations Committee, which had voted to disapprove the Plan, for instance, described it as "hastily formed, without adequate preparation;" as a consequence, "awkward arrangements had to be made for concessions and compromises." 30/

As a result of the widespread opposition, the Nixon Administration reached an agreement--spelled out in a written accord with the unions--not to implement the Plan's transfer of INS personnel to Customs if the unions withdrew their opposition. 31/ The Administration's goal, of course, was to save the nascent DEA. The Plan became operational, but only with the understanding that the INS transfer to Customs would not be implemented and, indeed, would be officially annulled. This was accomplished early in 1974, with a public law striking the second half of the Plan. 32/

30/ U.S. Congress. House. Committee on Government Operations. Law Enforcement on the Southwest Border (Problems in Coordination Between the Immigration and Naturalization Service and Customs Service). House Report No. 93-1630, 93d Cong., 2d Sess. Washington, U.S. Govt. Print. Off., 1974. p. 19.

31/ See, Agreement on Reorganization Plan No. 2 of 1973, in: Congressional Record, v. 119, 1973. p. 18494-18495. The accord's genesis and impact are described in the House and Senate Government Operations Committee reports cited in note 27/ above. See also Louis Fisher and Ronald C. Moe. Presidential Reorganization Authority: Is It Worth the Cost? Political Science Quarterly, v. 96, Summer 1981. p. 313. This Administration pledge--not to implement a portion of a properly authorized reorganization plan--raised its own set of criticisms.

32/ P.L. 93-253; 88 Stat. 50.

Consequently, Customs' anticipated gains (of additional personnel and authority) and the consolidation of port-of-entry inspections materialized only on paper. Even then, the gains were written with disappearing ink.

V. OMB'S SINGLE-AGENCY MANAGEMENT STRATEGY, 1974

The establishment of DEA by Reorganization Plan No. 2 of 1973, along with the repeal of the provision consolidating port-of-entry inspections in Customs, had further ramifications for border management and its reorganization. The developments served as the catalyst for a different approach--a single agency management strategy for border patrolling and port inspections, advanced by the Office of Management and Budget (OMB). Such a strategy would mean that either Customs or INS, but not both, would patrol the border and one or the other would conduct inspections at ports of entry. The rationale was to reduce, if not eliminate, the overlapping jurisdiction and duplication of effort in these areas, curtail interagency rivalry and conflicts, and promote economy and efficiency. The effort, however, went beyond an evaluation of the single-agency management strategy, which Members of Congress had requested, to an actual field test of it, which had not been authorized. The end result was additional inter-branch conflict rather than the beginning of a broad-scale, long-term reorganization of border management.

OMB's single-agency management study and test came about in a somewhat convoluted fashion and after a series of events following Customs' loss of its drug intelligence and investigative functions to DEA. In the words of a followup House Government Operations Committee report, this loss "was a heavy blow to Customs, particularly because of the public prominence and congressional support given to drug abuse control efforts." 33/ Reacting against this, Customs deployed its own uniformed patrol along the Mexican border, in order to reassert its presence. (The force had been discontinued 25 years before.) This initiative, according to the congressional panel, however, resulted in "controversy and friction between customs patrol officers and other Federal, State, and local law enforcement agencies." 34/

At this point, several Members of Congress requested that OMB "study and assess the situation in the interest of eliminating duplication and effecting better coordination." 35/ As a long-term solution to these problems, OMB advanced a "single agency" management strategy for the Mexican border. Specifically, OMB proposed that the INS border patrol be responsible for routinely patrolling the land borders between ports of entry and that the Customs patrol be deployed only at ports of entry, to strengthen security and enforcement there. The Customs Service would also "implement a test of single-agency management at Mexican border ports," where it would have management responsibility for primary inspections, port security, and administration. 36/

33/ House Government Operations Committee, Law Enforcement on the Southwest Border, p. 20. See also Rachal, Federal Narcotics Enforcement, p. 111-131.

34/ House Government Operations Committee, Law Enforcement on the Southwest Border, p. 2.

35/ Ibid. The affected departments, Justice and Treasury, submitted reports and recommendations in this field. Their recommendations regarding lead- or single-agency status for INS and Customs, not surprisingly, differed. Treasury's submittals to OMB are cited in ibid., p. 3, note 7. Justice's report is: U.S. Department of Justice. A Secure Border: An Analysis of Issues Affecting the U.S. Department of Justice. Washington, Department of Justice, 1974.

36/ House Government Operations Committee, Law Enforcement on the Southwest Border, p. 3-4.

Finally, Customs would be the "lead agency," but not the "single agency," for air interdiction and routine air enforcement duties; this meant it would have primary but not exclusive responsibility in that area.

When OMB went beyond the authorized study and actually sanctioned a test of the single-agency management strategy, however, both the House Government Operations Committee and the Comptroller General questioned the legality and propriety of OMB's initiatives along several lines. 37/

First of all, redeploying Customs officers meant that they could be confined to ports of entry and prevented from patrolling land borders. This contradicted Customs own statutory authority and responsibilities to combat smuggling; and it ran counter to an existing appropriations limitation that was intended to prevent the transfer of Customs border control activities.

OMB also called for a "cross designation" of INS border patrolmen as Customs agents. This provoked serious reservations about the enforcement authority of such cross-designated officers, the legality of their activities, and administrative command and control over them. Questions were asked, for instance, about a series of related matters:

- --whether the cross-designated INS agents could enforce all or only certain of the laws that Customs agents did;
- --whether such agents could use Customs broad search and seizure powers or whether they must rely on the more limited INS authority; and
- --since cross-designated INS patrolmen were enforcing Customs laws, whether Customs officials would have any command or supervisory responsibility over them. 38/

Finally, other concerns arose over OMB's decision to make Customs the single agency responsible for port-of-entry inspections. This initiative,

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37/ Ibid., p. 6-7 and 14-18.

38/ Ibid., p. 14-18.

however, appeared to violate the spirit of the earlier amendment to Reorganization Plan No. 2 that repealed authority for Customs to consolidate primary inspection at ports.

At the heart of the legislative criticisms of OMB's single-agency management strategy was the uncertain authority to implement a test of it. The legal question, asked by the House Government Operations, hinged on "whether or not it involves a transfer of functions from one department or agency to another, or an abolition of functions of an agency." The answer given by the panel was "that neither the President nor the OMB, nor departments individually or in concert, could order such action administratively. Action by Congress would be required . . . in the form of a legislative enactment." 39/

The upshot of this episode was that the test of OMB's single-agency management strategy, lacking an explicit statutory directive, stopped.

VI. FEDERAL BORDER MANAGEMENT AGENCY PROPOSAL, 1977

Three years later and in another Presidency, two far-reaching studies by the Carter Administration, together with several reports from the General Accounting Office (GAO), 40/ heightened interest again in a major restructuring

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39/ Ibid., p. 14.

40/ GAO did not recommend a new border management at the time. But two of its reports identified serious problems in coordination among border management agencies, particularly along the US-Mexican border in controlling drug trafficking and illegal immigration, and were cited by the Carter Administration studies. U.S. General Accounting Office. Federal Drug Enforcement: Strong Guidance Needed. GGD-76-32, Dec. 18, 1975. Washington, 1975; and Illegal Entry at United States Mexico Border--Multiagency Enforcement Efforts Have Not Been Effective in Stemming the Flow of Drugs and People. GGD-78-17, December 2, 1977. Washington, 1977. During this period, several other GAO reports, included in the appendix, also noted problems in curtailing illegal drugs and immigrants.

of border management agencies. In 1977, the Office of Drug Abuse Policy and the President's Reorganization Project Task Force on Law Enforcement examined a variety of border management options, ranging from modest changes in structure and authority to broad-scale mergers of prominent agencies.

The efforts of the two presidential groups, in tandem with the President Jimmy Carter's own commitment to executive branch reorganization, resulted in serious consideration of a plan to combine Customs, INS, and possibly other border management entities, into a single organization. The goals of the plan were to improve interdiction and enforcement operations, especially combating drug trafficking and illegal immigration; end fragmented authority, overlapping jurisdiction, and duplication of effort; and increase efficiency.

Opposition, however, arose over several matters connected with such a major restructuring. As a consequence, no official reorganization plan or legislation was submitted by President Carter.

A. Office of Drug Abuse Policy Report on Border Management

In September of 1977, the Office of Drug Abuse Policy (ODAP) in the Executive Office of the President released a report on border management and interdiction. 41/ The study, conducted by an interagency review team under the direction of ODAP, focused on the two principal functions of border control: inspection of persons and goods at ports of entry and patrolling between ports of entry, to prevent smuggling. Based on the study, ODAP identified two major issues or problems: "overall lack of coordinated border management, and the

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41/ U.S. Office of Drug Abuse Policy. Border Management and Interdiction--An Interagency Review. Washington, Executive Office of the President, 1977.

overlap and duplication of effort in the principal control functions." 42/ These problems, the study found, were compounded by the "massive workloads and duplicate management systems," inadequate resources, and inadequate intelligence. 43/

At the time, seven agencies from six different departments participated in border management, control, and law enforcement. Although the U.S. Customs Service and Immigration and Naturalization Service were the primary agencies, the Public Health Service, Animal and Plant Health Inspection Service, Drug Enforcement Administration, U.S. Coast Guard, and Fish and Wildlife Serice were also involved in border management activities.

The ODAP report spelled out four major options, along with their advantages and disadvantages, to deal with the problems of coordination and duplication. The options ranged from maintaining the status quo to creating a multi-purpose border agency, composed of INS, Customs, and the Coast Guard. 44/

The interagency review team concluded that a major reorganization was needed, because the "current organizational structure was determined to be the underlying cause of the operational problems." 45/ Based on this, the team recommended that a "multi-purpose border management agency should be created by consolidating INS and Customs into a new agency." 46/ Its anticipated virtues were seen as eliminating overlap, duplication, and fragmentation of effort;

42/ Ibid., p. 11.

43/ Ibid., p. 11 and 37.

44/ Ibid., p. 46-59.

45/ Ibid., p. 58.

46/ Ibid., p. 51-54 and 59.

providing central management; and improving interagency coordination, cooperation, and control; among others.

The final and most comprehensive option raised, but not recommended, took the proposal one step farther. It would also incorporate the Coast Guard into the new agency, thus placing Federal responsibility for the entire perimeter of the United States, both borders and U.S. territorial waters, in a single organization. The 1977 ODAP study did not recommend including the Coast Guard for two principal reasons: The Coast Guard's other non-law enforcement responsibilities might suffer as a consequence and its large size and broad range of responsibilities might detract from the desired law enforcement orientation of a new border management agency. 47/

One of the fundamental questions associated with the ODAP proposal for a new border management agency (consisting of INS and Customs or one with Coast Guard), however, was not answered: Where would such an organization be located? Alternative sites included: (1) a new separate independent agency in the executive branch or (2) one of the existing departments already housing a primary border agency. The prime candidates from ODAP's perspective were the Departments of Justice, where INS is located, and Treasury, where Customs is located. Although the report did not choose either one, it offered criteria to determine the future home:

--the size and nature of the existing border presence,

--the relative strength of each agency's ties to its current department,

--the relative contribution to control over entry, and

--the potential impact on the revenue function. 48/

47/ Ibid., p. 55-56.

48/ Ibid., p. 53.

B. President's Reorganization Project Study of Border Management

Shortly after ODAP released its study, the President's Reorganization Project (PRP) Task Force on Law Enforcement issued a draft report on reorganization options related to border management, incorporating many of the same conclusions and specific options that ODAP had. 49/ Although the PRP draft report did not endorse any particular option, the effort, along with the previous ODAP interagency study and proposal, provided the basis for the Carter Administration to consider a reorganization plan that would create a new Federal border management agency. As initially proposed, the new organization was to incorporate only Customs and INS, similar to the option advanced by ODAP and examined by PRP; as the project evolved, however, other governmental units were considered for inclusion. The reorganization's rationale was to end fragmentation and duplication, reduce the number of agencies, improve coordination and cooperation, and increase efficiency and effectiveness. The prospective plan, however, attracted substantial opposition from the some of the affected agencies and employee unions, organized interests, and several congressional committees. Ultimately, the President decided against submitting a reorganization plan to create a new border management agency.

The prospect of such a plan came about because of President Carter's high commitment to executive branch reorganization along with concerns about Federal law enforcement in general and about border control and interdiction in particular. Jimmy Carter had given high priority to reorganization during the

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48/ Ibid., p. 53.

49/ U.S. Executive Office of the President. Office of Management and Budget. President's Reorganization Project. Reorganization Options Related to Border Management (draft). Washington, Executive Office of the President, 1977.

election campaign of 1976. 50/ When he entered office, one of his first requests to Congress was for renewed presidential reorganization authority, which was granted. 51/ Early in his term, Jimmy Carter restructured the Office of Management and Budget to facilitate reorganization efforts and established the President's Reorganization Project (PRP), under OMB's auspices, to study and assess relevant needs in four major areas.

One of these was Federal law enforcement. On June 29, 1977, the President issued a memorandum to all agency heads, calling for their support for a comprehensive review of that field, which he considered "a high priority item." 52/ A significant reason for this review, President Carter noted, was the "considerable jurisdictional ambiguity, overlap, and possible duplication among Federal organizations performing police or investigative activities." 53/

50/ The Presidential Campaign, 1976. Washington, U.S. Govt. Print. Off., 1978. v. I (Jimmy Carter). p. 242-243 and 383; Jimmy Carter. Keeping Faith: Memoirs of a President. New York, Bantam Books, 1982. p. 69-77; and Public Papers of the Presidents: Jimmy Carter, 1977. Washington, U.S. Govt. Print. Off., 1978. Book II, p. 1191.

51/ P.L. 95-17; 91 Stat. 29. This authority was broader than the powers which had lapsed four years before, at the end of Richard Nixon's Presidency. See Fisher and Moe, Presidential Reorganization Authority, p. 311.

52/ U.S. President. Jimmy Carter, 1977-1981. Memorandum for the Heads of Executive Departments and Agencies: Comprehensive Review of Federal Law Enforcement. Federal Register, v. 42, 1977. p. 33911.

53/ Ibid. Later, when PRP completed the survey, its findings supported the President's impressions and singled out border management as a major law enforcement problem area:

> There is little accountability for management of the U.S. borders, as demonstrated by the duplication of efforts in inspections at ports of entry and patrol between ports of entry . . . This duplication of effort and the lack of cooperation between the two agencies [Customs and INS] hamper effective border management.

U.S. Executive Office of the President. Office of Management and Budget. Federal Law Enforcement, Police and Investigative Activities: A Descriptive Report. Washington, Executive Office of the President, 1978. p. 116.

The PRP Law Enforcement Task Force draft report on border managment developed this same theme, along with four others:

--Serious problems of overlap, duplication of effort, and lack of coordination exist between the two principal agencies involved at the land borders, Customs and INS. These problems significantly hamper effective border control.

--U.S. borders are under increasing pressure from a flow of illegal narcotics and drugs, undocumented aliens, and contraband.

--In concentrating on its border enforcement responsibilities to prevent illegal entries, INS has been unable to devote sufficient resources to its important nonborder administrative law function.

--There is substantial duplication and inconsistency in the visa application and approval activities of the State Department and the INS border admissions process.

--Any effort to make land border enforcement effective without enforcement of the air and sea borders simply invites an increase in smuggling by air and sea . . . And air and sea interdiction capability is an important factor in any overall border management concept. [54]

Based on these findings, the PRP report discussed four options for border management improvement. The most modest alternative simply called for additional resources and personnel, without advocating a reorganization. The second proposed to combine and unify the patrol functions of Customs and INS in one Department (Justice or Treasury); and the inspection functions of Customs and INS in the other Department (Treasury or Justice). The third option advanced a Border Management Agency in either Treasury or Justice, combining Customs and INS patrol and inspection functions into one unit, along with the remaining functions and support activities of the agency already within the Department. The remaining agency, no longer possessing inspection or patrol responsibilities, would retain its organizational identity in its original department. And the fourth alternative recommended merging all of Customs and INS into a new Border Management Agency, to be located in either Treasury or Justice. 55/

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[54] PRP, Border Management Reorganization, p. 4-7.

The PRP draft report also looked at which Department--Justice or Treasury--would be the most appropriate location for any prospective border management agency. Each department contended that it had sufficient personnel, organizational framework, and management capability to assume additional border enforcement responsibilities. Although it made no recommendation, the PRP draft report added information that favored Treasury over Justice. The report noted that Treasury devoted approximately three times more resources to inspection than Justice and that Treasury's inspection function was substantially broader than Justice's. 56/

The prospect of merging all of the Customs and Immigration Services into a new border management agency encountered opposition on several grounds. 57/

One set of concerns focused on Treasury as the likely site of the new unit. This was a reasonable surmise because Treasury, by comparison to Justice, had a longer history in border management, devoted substantially more resources to it, and held broader enforcement and interdiction powers, especially Customs'

55/ Ibid., p. 13-17.

56/ Ibid., p. 19-20.

57/ For an examination of the opposition to the plan from various sources, see Kaiser, Federal Law Enforcement, p. 106-107; Marshall Carter, Law Enforcement and Federalism: Bordering on Trouble. Policy Studies Journal, v. 7, 1978, p. 414-417, and Agency Fragmentation and Its Effects: A Borderlands Case. Policy Studies Journal, v. 8, 1980. p. 865-868; U.S. Senate. Committee on the Judiciary. History of the Immigration and Naturalization Service. (Committee print). Washington, U.S. Govt. Print. Off., 1980. p. 84-85; National Journal, v. 10, May 20, 1978. p. 794; and v. 11, September 15, 1979. p. 1539; and New York Times, May 31, 1978. p. A9.

unequaled search and seizure authority. The Justice Department was already on record against such a transfer in principle, when it commented on the earlier ODAP report. Justice had criticized separating INS activities from the main criminal law enforcement department (i.e., Justice) and merging them into a fiscal, revenue-collection department, as it characterized Treasury. 58/

Other opposition came from a variety of sources, including organized interests, ethnic groups, employee unions, and congressional committees. 59/

The INS employees' union saw the prospective merger of INS into Treasury as a repeat of the 1973 Reorganization Plan battle, in which it helped to defeat the transfer of INS personnel and jurisdiction to Customs. Hispanic groups, whose relationship with INS had then recently improved, also opposed the transfer.

At about the same time, Congress, led by the House Judiciary Committee, banned the use of Justice Department funds to transfer border control activities from INS. 60/ Finally, the State Department and members of the House Foreign Affairs Committee expressed concerns about a possible reassignment of visa responsibilities from State to Justice; that possibility, which had been raised in the PRP report, gained currency in press accounts about the Carter Administration's plan. 61/

58/ See its comments in the ODAP report, Border Management, Appendices I and P.

59/ See studies cited in footnote 57/.

60/ P.L. 95-624; 92 Stat. 3465.

61/ See studies cited in footnote 57/.

As the opposition grew, President Carter first postponed and later decided against submitting a border management reorganization plan.

VII. ATTORNEY GENERAL'S TASK FORCE ON VIOLENT CRIME PROPOSAL, 1981

Early in the Reagan Administration, Attorney General William French Smith set up a Task Force on Violent Crime. The bipartisan, blue-ribbon panel was co-chaired by Griffin B. Bell, former Attorney General (in the Carter Administration) and a former Federal judge, and James B. Thompson, Governor of Illinios and a former U.S. Attorney in Chicago. The Commission was charged with studying and making recommendations to the Attorney General on "ways in which the federal government could do more to combat violent crime." 62/

Two of its major concerns were (1) narcotics trafficking and related violent crime and (2) the need to strengthen enforcement of federal laws. As a result, the Commission concluded that "reorganization of federal law enforcement functions would improve the efficiency of the federal law enforcement machinery and should receive serious consideration by the Attorney General." 63/ Among other related proposals, the Commission issued a recommendation affecting border management:

> Another area for reorganization consideration is the transfer of the Border Patrol of the Department of Justice to the U.S. Customs Service of the Department of Treasury. This would permit more effective coordination in the effort to reduce the flow of narcotics into this country. 64/

62/ U.S. Department of Justice. Attorney General's Task Force on Violent Crime. Final Report. Washington, U.S. Govt. Print. Off., 1981. p. v.

63/ Ibid., p. 43; see also p. 28-29 and 42.

64/ Ibid.

VIII. HOUSE GOVERNMENT OPERATIONS COMMITTEE REPORTS ON DRUG INTERDICTION

During the 1980s, probably no Federal crime control endeavor has received more consistent attention and higher priority than anti-drug law enforcement. Over this period, increases in illicit drug smuggling and its implications for the Government (e.g., bringing into question its ability to control United States borders) have raised concerns about border interdiction efforts and capabilities and focused attention on the border agencies. The field has also been exposed to numerous and significant initiatives in policy and public law, such as amendments to the Posse Comitatus Act and the Omnibus Anti-Drug Act of 1986, substantial additions of funding and new programs, and major organizational developments. 65/

These, in turn, have led to a number of studies and reports from panels and support agencies of Congress, dealing with Federal efforts to combat drug trafficking. 66/ Many of the studies have found the same, continuing problems: a lack of cooperation and coordination among the agencies,

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65/ Studies and reports providing an overview of these developments and recommendations for improvements are included in the Appendix. See U.S. Senate. Caucus on International Narcotics Control. Legislation Aimed at Combating International Drug Trafficking and Money Laundering: A Staff Report. Senate Print 100-67, 100th Congress, 1st Session. Washington, U.S. Govt. Print. Off., 1987; U.S. President's Commission on Organized Crime. America's Habit: Drug Abuse, Drug Trafficking, and Organized Crime (Report to the President and Attorney General). Washington, U.S. Govt. Print. Off., 1986; U.S. Library of Congress. Congressional Research Service. Drug Control at the Federal Level: Coordination and Direction. Report No. 87-780 GOV, by Harry Hogan. Washington, 1987; U.S. Office of Technology Assessment. The Border War on Drugs. Washington, Office of Technology Assessment, 1987; and U.S. General Accounting Office. Controlling Drug Abuse: A Status Report. GGD-88-39. Washington, 1988. See p. 41-43 of this report for a listing of other GAO reports on anti-drug interdiction efforts and interagency coordination.

66/ See the legislative branch studies cited in ibid.

fragmented authority, overlapping jurisdiction, and interagency rivalry. Two from the House Government Operations Committee--on the National Drug Policy Board in 1987 and on Operation Alliance in 1988--have also recommended broad-scale reorganizations that would affect border management agencies.

A. Report on the National Drug Policy Board, 1987

The National Drug Policy Board was established by the National Narcotics Act of 1984 to provide central leadership in the war on drugs and to oversee the activities of the agencies involved. Reporting in mid-1987, the House Committee on Government Operations concluded, however, that the Board had been "a failure in the war on drugs." 67/ The Committee found that the "absence of a single lead entity for federal anti-drug abuse efforts is a major contributing cause to the current state of enforcement activities . . . characterized by overlapping jurisdictions, uncertain leadership, and 'turf battles' that frustrate the success of many anti-narcotics programs." 68/

Based on this, the panel issued a set of recommendations to improve the Board's leadership role. If, however, "the Board proves unable to assume a more forceful and efficient leadership role at the federal level," the Committee proposed that "Congress should institute a federal reorganization to place all major drug law enforcement agencies into an existing single department under the direction of a cabinet-level secretary." 69/

67/ U.S. Congress. House. Committee on Government Operations. The National Drug Policy Board: A Failure in the War on Drugs. House Report No. 100-184, 100th Congress, 1st Session. Washington, U.S. Govt. Print. Off., 1987. p. 1.

68/ Ibid.

69/ Ibid., p. 3.

B. Report on Operation Alliance, 1988

A year later, the House Committee on Government Operations examined one of the major interagency anti-drug trafficking endeavors, Operation Alliance. It was set up as an intensive multiagency interdiction effort, combining DEA, Customs, and INS Border Patrol personnel, and operated along the Mexican border, where a substantial portion of illegal narcotics enter the United States. 70/

The Committee found the multiagency effort wanting, in part, because of command, structural, and organizational weaknesses in Operation Alliance. It was unable, for instance, to override continuing problems associated with interagency rivalry, lack of cooperation, and fragmented responsibility. The initiatives along the southwest border, the panel reported, "have not always been carried out with the necessary cooperation, operational security, or integration of intelligence that is demanded of a successful interdiction program." 71/ In sum, the panel concluded:

> Operation Alliance has failed to enlist the full and total cooperation of many of the Federal agencies participating in it . . .
>
> Its activities have been frustrated by a variety of organizational problems . . .
>
> Problems with coordination suggest that programs designed to elicit multiagency cooperation are inadequate and that major structural changes in drug interdiction activities are needed. 72/

One of the Government Operations Committee's proposed solutions along these lines mirrored a recommendation in its 1987 National Drug Policy Board

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70/ U.S. House. Committee on Government Operations. Operation Alliance: Drug Interdiction on the Southwest Border. House Report No. 100-562, 100th Congress, 2d Session. Washington, U.S. Govt. Print. Off. 1988. p. 4-6.

71/ Ibid., p. 4.

72/ Ibid.

report: Legislation should be considered that would "reorganize the Federal Government to place all law enforcement agencies with narcotics interdiction jurisdiction within a single department in order to better plan and coordinate activities such as Operation Alliance." 73/

IX. BORDER MANAGEMENT REORGANIZATION BILLS IN THE 100TH CONGRESS

Two major bills have been introduced in the 100th Congress that would bring about a broad-scale reorganization of border management agencies: the Coast Guard and National Border Coordination Revitalization Act (S. 2230) 74/ and the Omnibus Antidrug Abuse Act (H.R. 4230 and S. 2205). 75/ Although the latter is more comprehensive, both pieces of legislation call for a similar reorganization in border management; and both are defended along similar lines.

Each measure would create a new unit in the Treasury Department--an Office of Enforcement and Border Affairs, whose head, an Under Secretary, would be nominated by the President and confirmed by the Senate--to house specified border interdiction agencies.

But these agencies would differ. Under the Coast Guard and National Border Act, the new Border Affairs Office would incorporate the Customs Service, a part of the Treasury Department since its inception in 1789; the U.S. Coast Guard, which would be transferred from the Transportation Department to Treasury, where it had been located until 1965; and the Immigration and Naturalization

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73/ Ibid., p. 5.

74/ S. 2230, 100th Congress, 2d Session, introduced by Ms. Mikulski for herself and Mr. Sarbanes.

75/ Titles III and V of S. 2205, 100th Congress, 2d Session, introduced by Mr. DeConcini for himself and others; and Titles III and V of H.R. 4230, 100th Congress, 2d Session, introduced by Mr. English for himself and others.

Service, which would be transferred from the Department of Justice, its home department since 1940. The Omnibus Antidrug Abuse Act, by comparison, would not move INS to the new Office in Treasury.

The broader Omnibus Antidrug Abuse Act, unlike the Coast Guard and Border Coordination Act, would also set up a special southwest border interagency task force, composed of Customs, DEA, and INS Border Patrol agents, to enhance interagency interdiction efforts there. All the agents in the task force would be under the command of a single officer, who would have direct line authority over them.

Despite these differences on specifics, both bills agree on border management reorganization in principle and have been defended on similar grounds by their sponsors. 76/ Weaknesses in command and control over interagency operations, interagency rivalry, lack of cooperation, and a failure to coordinate activities and share intelligence were seen as tied to organizational deficiencies. As a result, according to the sponsors, drug interdiction efforts have faltered and accountability has suffered. Representative Glenn English, the chief House sponsor of the Omnibus Antidrug Abuse Act, stated, "Too often we have heard complaints about turf wars, disputes, and an unwillingness to cooperate among interdiction agencies. Yet no one in an official capacity, except for the President, has the direct authority over these agencies to ensure they work together . . . ." 77/

76/ On S. 2230, see the introductory statements by Senators Mikulski and Sarbanes. Congressional Record, Daily Edition, v. 134, March 29, 1988. p. S3299-3300; on S. 2205, by Senators DeConcini, Moynihan, Graham, Domenici, Hatfield, and Sarbanes. Congressional Record, Daily Edition, v. 134, March 23, 1988. p. S2857 and S2885-S2890; and on H.R. 4230, by Representative English. Congressional Record, Daily Edition, v. 134, March 23, 1988. p. H1140-H1141.

77/ Ibid., p. H1140.

Solutions to these problems--to enhance drug interdiction efforts--require a broad-scale reorganization of the agencies involved, according to the bills' sponsors. The new arrangements in the two measures would help to override the barriers between and among the border agencies and would also help in terms of their funding. Representative English noted, for instance, that the head of the proposed Office of Enforcement and Border Affairs would "have direct authority, and, more important, accountability, for making sure that the Coast Guard and Customs Service work closely together." 78/ Senator Mikulski referred to the same Office "as a one-stop shop that guarantees the best possible effort" for drug interdiction and "guarantee[s] that the Federal Government has a more coordinated approach to fighting illegal drugs from entering into this country." 79/

The transfer of the Coast Guard to Treasury, its original parent department until 1965, was also seen as necessary to protect its budget for combating drug trafficking and its other missions. Senator Mikulski, for instance, argued that the Coast Guard, as a part of the Transportation Department, has had "to compete for resources with subways and Amtrak." 80/ Because the Reagan Administration has opposed Federal funds for public transportation, part of the Department's responsibility, Congress is forced into "an annual showdown" between funds for mass transit and funds for the Coast Guard. 81/ Senator Sarbanes concurred with these sentiments: "It makes sense to remove the Coast Guard from the

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78/ Ibid.

79/ Ibid., p. S3299.

80/ Ibid.

81/ Ibid.

transportation function where it had to annually compete for resources from transportation specific programs, [even though] a major part of the Coast Guard's function is not transportation-specific." 82/ Moving it to the Treasury Department, as seen by the Senator, would "enable us to more adequately address the needs of the Coast Guard, and our country, with regard to drug interdiction, marine and boating safety, and enforcement of laws and treaties." 83/

X. CONCLUSION

Since 1930, a number of broad-scale reorganizations have been recommended to improve the management and control of U.S. borders. Both Republican and Democratic Administrations, governmental commissions, affected agencies, Members and committees of Congress, and public policy analysts have proposed or endorsed major restructurings that would consolidate, transfer, or merge border management agencies, authority, jurisdiction, and resources.

These reorganization proposals, based on the plans advanced over the past six decades, have followed one of three paths. (1) Transfer jurisdiction, authority, resources, and personnel between or among the affected agencies and departments, as with the proposal to consolidate port-of-entry inspection with Customs and with OMB's single-agency management strategy approach in 1974. (2) Unify integral parts of the border agencies, such as the border patrols of Customs, Immigration, and the Coast Guard, as recommended by President Hoover in 1930 and again in 1932. (3) Finally, merge entire agencies and create a

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82/ Ibid., p. S3300.

83/ Ibid.

new organization composed of two or three of the major interdiction agencies, i.e., Customs, Coast Guard, and INS; options along this line were advanced by the Carter Administration in 1977-1978 and currently by several border management revitalization bills introduced in the 100th Congress.

Despite some significant differences, all of these proposed reorganizations have several things in common. They have been stimulated by perceived serious defects in Federal law enforcement and interdiction efforts along the border, particularly over the smuggling of illegal aliens and of illegal drugs (alcohol during the Probihition era and illicit narcotics in the contemporary era).

In addition, the reasons given for the border control deficiencies have focused on common problems: the lack of coordination and cooperation among the numerous agencies involved in border management, overlap and duplication of effort, fragmented authority and responsibility, and interagency rivalry. Presently, for instance, seven agencies in six departments share principal responsibility for border management, with the Customs Service in the Treasury Department, Immigration and Naturalization Service in the Justice Department, and U.S. Coast Guard in the Transportation Department dominating. Each of the seven agencies has a different set of enforcement authorities, statutory responsibilities, operational guidelines, organizational structures, and personnel organizations that promote its own independence and autonomy. Compounding problems that result from these characteristics have been "turf battles" and competing enforcement priorities among the agencies.

The border management agencies also have to contend with substantial existing responsibilities coupled with new or expanding ones. The increased demands have come about because of added statutory assignments, the continued expansion of international travel and trade, increasing and sometimes more sophisticated smuggling efforts, and changing policy priorities. All of these put additional strains on existing governmental resources to manage and control the borders.

This is also a field where additional revenue and resources or less far-reaching restructurings have proven insufficient, according to proponents of broad-scale reorganizations, to meet the major policy goals, such as combating illicit drug smuggling. These promoters argue, therefore, that a major restructuring of the government's efforts is necessary to overcome the obstacles and failings inherent in this area.

Notwithstanding persistent and occasionally wide-ranging support, however, no broad-scale reorganization of border management has ever been approved by Congress. Such recommendations have attracted a variety of opposition, from agencies and departments that stand to lose jurisdiction, from congressional committees that would be similarly affected, and from agency personnel and private sector organizations that see their interests as being disadvantaged by a transfer.

Objections have also arisen because of competition over policy priorities and concerns that new organizational arrangements might harm implementation of other existing programs. Questions, moreover, have been raised over a series of related matters: which agencies are to be included (or excluded) and on what grounds; where is the new organization to be located; what goals and objectives are expected to met; are these expectations realistic and are they compatible with one another; and what costs would fall to the parent departments (or agencies) which would lose jurisdiction, resources, and personnel and to the other policies they enforce.

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CRS REPORT FOR CONGRESS

ILLUSTRATIVE SOURCES OF FEDERAL LAW ENFORCEMENT AUTHORITY RELATED TO BORDER MANAGEMENT

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ABSTRACT

Law enforcement responsibilities along United States borders are currently dispersed among a number of federal departments and agencies. Among these are the Coast Guard, the Customs Service, the Drug Enforcement Administration (DEA), the Federal Bureau of Investigation (FBI), the Immigration and Naturalization Service (INS), the Bureau of Alcohol, Tobacco, and Firearms (BATF), which operates within the aegis of the Department of the Treasury, and the Internal Revenue Service Intelligence, Internal Security and External Security Divisions (IRS). Enforcement authority for these activities can be drawn from sources as disparate as general or specific grants in statutory language, Executive Orders, Reorganization Plans, Presidential Directives, and Treasury Orders. This report will provide an overview of the evolution and current sources of law enforcement authority in the federal border management scheme.

ILLUSTRATIVE SOURCES OF FEDERAL LAW ENFORCEMENT AUTHORITY RELATED TO BORDER MANAGEMENT

INTRODUCTION

Law enforcement responsibilities along United States borders are currently dispersed among a number of federal departments and agencies. Among these are the Coast Guard, the Customs Service, the Drug Enforcement Administration (DEA), the Federal Bureau of Investigation (FBI), the Immigration and Naturalization Service (INS), the Bureau of Alcohol, Tobacco, and Firearms (BATF), which operates within the aegis of the Department of the Treasury, and the Internal Revenue Service Intelligence, Internal Security and External Security Divisions (IRS). Enforcement authority for these activities can be drawn from sources as disparate as general or specific grants in statutory language, Executive Orders, Reorganization Plans, Presidential Directives, and Treasury Orders.

The first section of this report will provide examples of typical authorizing language and demonstrate the range of vehicles which have been used to vest law enforcement responsibility in these organizations. The second section will trace the evolution of two of these entities, INS and the FBI, to illustrate the growth of law enforcement authority. In addition this section will set forth both the executive and legislative sources of that authority and the various methods by which these law enforcement powers were vested. The third section will examine the breadth of law enforcement responsibility currently held by a single agency, the Coast Guard, within the complex framework of border management.

I. TYPICAL AUTHORIZING LANGUAGE FROM BOTH LEGISLATIVE AND EXECUTIVE BRANCHES

Presidential Directive

FBI authorization, Presidential Directive of December 15, 1953:

"Statement by the President Requesting Reports to the FBI of Violations of the Atomic Energy Act." December 15, 1953. Public Papers of the Presidents of the United States, Dwight D. Eisenhower, p. 851 (1953).

> On September 6, 1939, January 8, 1943, and July 24, 1950, Presidential Directives were issued requesting all enforcement officers, both Federal and state, to report promptly all information relating to espionage, sabotage, subversive activities and related matters to the nearest field representative of the Federal Bureau of Investigation.
>
> The Federal Bureau of Investigation is charged with investigating all violations of the Atomic Energy Act, including the illegal export or import of fissionable material, the illegal possession or transportation of fissionable material and the illegal production, transfer, or possession of any equipment or device utilizing fissionable material or atomic energy as a military weapon. "Fissionable material" means plutonium, uranium-235 or other material capable of releasing substantial quantities of energy through nuclear chain reaction. I am requesting that all enforcement officers, both Federal and state, report all information relating to violations of the Atomic Energy Act to the nearest field representative of the Federal Bureau of Investigation.
>
> I suggest that all patriotic organizations and individuals likewise report all such information to the Federal Bureau of Investigation in the same manner.

Reorganization Plan

DEA authorization, Reorganization Plan No. 2 of 1973:

> LAW ENFORCEMENT IN ILLICIT DRUG ACTIVITIES
>
> Section 1. Transfers to the Attorney General
> There are hereby transferred from the Secretary of the Treasury, the Department of the Treasury, and any other officer or any agency of the Department of the Treasury, to the Attorney General all intelligence, investigative, and law enforcement functions, vested by law in the Secretary, the Department, officers, or agencies which relate to the suppression of illicit traffic in narcotics, dangerous drugs, or marihuana, except that the Secretary shall retain, and continue to perform, those functions, to the extent that they relate to searches and seizures of illicit narcotics, dangerous drugs, or marihuana or the apprehension or detention of persons in connection therewith, at regular inspection locations at ports of entry or anywhere along the land or water borders of the United States: Provided, that any illicit narcotics, dangerous drugs, marihuana, or

related evidence seized, and any person apprehended or detained by the Secretary or any officer of the Department of the Treasury, pursuant to the authority retained in them by virtue of this section, shall be turned over forthwith to the jurisdiction of the Attorney General; Provided further, that nothing in this section shall be construed as limiting in any way any authority vested by law in the Secretary of the Treasury, the Department of the Treasury, or any other officer or any agency of that Department on the effective date of this Plan with respect to contraband other than illicit narcotics, dangerous drugs, and marihuana: and Provided further, that nothing in this section shall be construed as limiting in any way any authority the Attorney General, the Department of Justice, or any other officer or any agency of that Department may otherwise have to make investigations or engage in law enforcement activities, including activities relating to the suppression of illicit traffic in narcotics, dangerous drugs, and marihuana, at ports of entry or along the land and water borders of the United States.

Section 4. Drug Enforcement Administration
There is established in the Department of Justice an agency which shall be known as the Drug Enforcement Administration, hereinafter referred to as "the "Administration".

Section 7. Coordination
The Attorney General, acting through the Administrator and such other officials of the Department of Justice as he may designate, shall provide for the coordination of all drug law enforcement functions vested in the Attorney General so as to assure maximum cooperation between and among the Administration, the Federal Bureau of Investigation, and other units of the Department involved in the performance of these and related functions.

Executive Order

FBI, IRS authorization, Executive Order No. 10450 of April 27, 1953:

WHEREAS the interests of the national security require that all persons privileged to be employed in the departments and agencies of the Government, shall be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States; and

WHEREAS the American tradition that all persons should receive fair, impartial, and equitable treatment at the hands of the Government requires that all persons seeking the privilege of employment or privileged to be employed in the departments and agencies of the Government be adjudged by mutually consistent and no less than minimum standards and procedures among the departments and agencies governing the employment and retention in employment of persons in the Federal service:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, including section 1753 of the Revised Statutes of the United States (5 U.S.C. 631); the

Civil Service Act of 1883 (22 Stat. 403; 5 U.S.C. 632, et seq.); section 9A of the act of August 2, 1939, 53 Stat. 1148 (5 U.S.C. 118j); and the act of August 26, 1950, 64 Stat. 476 (5 U.S.C. 22-1, et seq.), and as President of the United States, and deeming such action necessary in the best interests of the national security, it is hereby ordered as follows:

Sec. 2. The head of each department and agency of the Government shall be responsible for establishing and maintaining within his department or agency an effective program to insure that the employment and retention in employment of any civilian officer or employee within the department or agency is clearly consistent with the interests of the national security.

Treasury Order

BATF authorization, Treasury Department Order No. 221:

BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS
Establishment, Organization, and Functions

By virtue of the authority vested in me as Secretary of the Treasury, including the authority in Reorganization Plan No. 26 of 1950, it is ordered that:

1. The purpose of this order is to transfer, as specified herein, the functions, powers, and duties of the Internal Revenue Service arising under laws relating to alcohol, tobacco, firearms, and explosives (including the Alcohol, Tobacco, and Firearms Division of the Internal Revenue Service), to the Bureau of Alcohol, Tobacco, and Firearms (hereinafter referred to as the Bureau) which is hereby established. The Bureau shall be headed by the Director, Bureau of Alcohol, Tobacco, and Firearms (hereinafter referred to as the Director). The director shall perform his duties under the general direction of the Secretary of the Treasury (hereinafter referred to as the Secretary) and under the supervision of the Assistant Secretary (Enforcement, Tariff and Trade Affairs, and Operations) (hereinafter referred to as the Assistant Secretary).

Statutory Language -- General

DEA and FBI authorization, 28 U.S.C. § 533:

§ 533. Investigative and other officials; appointment
The Attorney General may appoint officials --

(1) to detect and prosecute crimes against the United States;

(2) to assist in the protection of the person of the President; and

(3) to conduct such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General.

This section does not limit the authority of departments and agencies to investigate crimes against the United States when investigative jurisdiction has been assigned by law to such departments and agencies.

Statutory Language -- Specific

Customs authorization, 21 U.S.C. § 1701:

> § 1701. Customs-enforcement area
>
> (a) Whenever the President finds and declares that at any place or within any area on the high seas adjacent to but outside customs waters any vessel or vessels hover or are being kept off the coast of the United States and that, by virtue of the presence of any such vessel or vessels at such place or within such area, the unlawful introduction or removal into or from the United States of any merchandise or person is being or may be occasioned, promoted, or threatened, the place or area so found and declared shall constitute a customs-enforcement area for the purposes of this Act. Only such waters on the high seas shall be within a customs-enforcement area as the President finds and declares are in such proximity to such vessel or vessels that such unlawful introduction or removal of merchandise or persons may be carried on by or to or from such vessel or vessels. No customs-enforcement area shall include any waters more than one hundred nautical miles from the place or immediate area where the President declares such vessel or vessels are hovering or are being kept, and notwithstanding the foregoing provision, shall not include any waters more than fifty nautical miles outwards from the outer limit of customs waters. Whenever the President finds that, within any customs-enforcement area, the circumstances no longer exist which gave rise to the declaration of such area as a customs-enforcement area, he shall so declare, and thereafter, and until a further finding and declaration is made under this subsection with respect to waters within such area, no waters within such area shall constitute a part of such customs-enforcement area. The provisions of law applying to the high seas adjacent to customs waters of the United States shall be enforced in a customs-enforcement area upon any vessel, merchandise, or person found therein.

II. HISTORY OF AUTHORIZING LANGUAGE OF THE INS AND THE FBI

INS

The history of the law enforcement and border management powers of the INS provides a brief but clear example of the various possible sources of that power. The predecessor to INS was created by legislation, and its powers were initially clarified and expanded by statute. However, the current agency was created and relocated in the Department of Justice through the executive branch.

The Bureau of Immigration and Naturalization was created by Act of June 29, 1906 (34 Stat. 596) as the first central federal agency to supervise naturalization of aliens, maintenance of naturalization records, and procedural safeguards for naturalization. Power to grant or deny naturalization remained with the courts. Representatives of United States Attorney offices, under the Department of Justice, were responsible for agency field work. In 1909, the field forces were transferred to the Department of Commerce and Labor by Act of March 4, 1909 (35 Stat. 982). As a result of that move, field work personnel were placed under the direction and control of the Bureau. The Act of March 4, 1913 (37 Stat. 737), abolished the Department of Commerce and Labor, creating in its stead the Department of Commerce and the Department of Labor. The Bureau was transferred to the Department of Labor and divided into two sections, a Bureau of Immigration and a Bureau of Naturalization; this relieved the Immigration Bureau of all matters relating to naturalization. An appropriations law, the Act of May 28, 1924 (43 Stat. 240), established the Border Patrol as an enforcement mechanism through which the Immigration Bureau could accomplish its duties regarding illegal entries. Executive Order No. 6166 of June 10, 1933, consolidated the two Bureaus to form the Immigration and Naturalization Service (INS), which was still within the Department of Labor. President Roosevelt's Reorganization Plan No. V of 1940, passed by Congress on June 14, 1940, transferred the INS from the Department of Labor to the Department of Justice. This was done as a national security measure to provide more effective control over aliens in light of contemporary international events. Subsequent legislation did not materially affect the law enforcement power delegated to INS. However, in 1973 Congress passed President Nixon's

Reorganization Plan No. 2 of 1973. The first part of this Plan, which took effect on July 1, 1973, created the DEA, located in the Department of Justice. The second part, which would have transferred the inspection forces of INS to the Bureau of Customs in the Department of Treasury, was repealed by P.L. 93-253, and did not take effect.

The FBI

The Bureau of Investigation in the Department of Justice, predecessor of the FBI, was created administratively in 1908. Apparently operating funds for the Bureau of Investigation were obtained through general language in the Department of Justice Appropriation Act of May 22, 1908, Ch. 186 § 1 (35 Stat. 236), although there is no express mention of the Bureau or any investigative function. Executive Order No. 6166 of June 10, 1933, transferred all the Bureau's functions, consolidating them with the investigative functions of the Bureau of Prohibition in a Division of Investigation in the Department of Justice. The Act of March 22, 1935 (49 Stat. 77), designated the Division of Investigation as the Federal Bureau of Investigation; the title of Director of the FBI was recognized by the Act of June 5, 1936 (49 Stat. 1484). 18 U.S.C. §3052 codifies the power of FBI officials and agents to carry firearms, serve warrants and subpoenas, and make arrests without warrant. This legislation, promulgated in 1948, was based on authority given in the Act of June 18, 1934 (48 Stat. 1008), and the Act of March 22, 1935 (49 Stat. 77). Presidential directives, which issued on September 6, 1939, January 8, 1943, and July 24, 1950, provided that the FBI should take charge of investigative work in matters relating to espionage, sabotage, subversive activities, and related matters. The Presidential Directive of December 15, 1953, charged the FBI with investigating all violations of the Atomic Energy Act. Executive Order No.

10450 of April 27, 1953, provided general authority regarding security requirements for federal employment. Chapter 33 of the United States Code Title 28, §§ 531 *et seq.*, "Federal Bureau of Investigation", added in 1966, codifies the duties of the FBI, the authority under which it operates, appointment of officials, and some expense appropriations. Executive Order 12333 of December 4, 1981, contained general authorizing language and guidelines for United States intelligence activities and authorized the FBI to conduct and coordinate counterintelligence activities, and certain foreign intelligence activities, under the supervision of the Attorney General.

III. COAST GUARD -- SOURCES OF LAW ENFORCEMENT AUTHORITY AFFECTING BORDER MANAGEMENT

As noted earlier, the current sources of law enforcement authority for any given federal entity sharing in the border management burdens may be widespread. They may be drawn from statute, executive order, reorganization plan, presidential directive, or other source, and occasionally from a combination of several of the above. To illustrate this, present sources of Coast Guard powers which impact upon federal border management functions will be examined. It should be noted that this is not an exhaustive catalog of all of the sources of Coast Guard law enforcement authority, but rather a selective examination of those sources which appear to affect or contribute to this organization's part in the larger border management scheme.

Coast Guard personnel may at a particular time be acting as part of the Navy or of the Customs Service in addition to fulfilling their Coast Guard functions. Under 14 U.S.C. § 1, the Coast Guard was established

> as a military service and a branch of the armed forces of the United States at all times. The Coast Guard shall be a service in the Department of Transportation, except when operating in the Navy.

The Coast Guard serves as part of the Navy in times of war or when the President directs under 14 U.S.C. § 3. In addition, under 14 U.S.C. § 143,

> Commissioned, warrant, and petty officers of the Coast Guard are deemed to be officers of the customs and when so acting shall, insofar as performance of the duties relating to customs laws are concerned, be subject to regulations issued by the Secretary of the Treasury governing officers of the customs.

See also the smuggling provisions in 19 U.S.C. §§ 1701-11. Section 1709(b) defines the term "officer of the customs" to mean

> an officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or agent or other person authorized by law or by the Secretary of the Treasury, or appointed in writing by a collector, to perform the duties of an officer of the Customs Service.

The primary duties of the Coast Guard are set forth in 14 U.S.C. § 2, as follows:

> The Coast Guard shall enforce or assist in the enforcement of all applicable Federal laws on and under the high seas and waters subject to the jurisdiction of the United States; shall administer laws and promulgate and enforce regulations for the promotion of safety of life and property on and under the high seas and waters subject to the jurisdiction of the United States covering all matters not specifically delegated by law to some other executive department; shall develop, establish, maintain, and operate, with due regard to the requirements of national defense, aids to maritime navigation, icebreaking facilities, and rescue facilities for the promotion of safety on, under, and over the high seas and waters subject to the jurisdiction of the United States; shall, pursuant to international agreements, develop, establish, maintain, and operate icebreaking facilities on, under, and over waters other than the high seas and waters subject to the jurisdiction of the United States; shall engage in oceanographic research on the high seas and in waters subject to the jurisdiction of the United States; and shall maintain a state of readiness to function as a specialized service in the Navy in time of war, including the fulfillment of Maritime Defense Zone command responsibilities.

The Coast Guard's general law enforcement powers are articulated in 14 U.S.C. § 89, which states:

> (a) The Coast Guard may make inquiries, examinations, inspections, searches, seizures, and arrests upon the high seas and waters over which the United States has jurisdiction, for the prevention,

> detection, and suppression of violations of laws of the United States. For such purposes, commissioned, warrant, and petty officers may at any time go on board of any vessel subject to the jurisdiction, or to the operation of any law, of the United States, address inquiries to those on board, examine the ship's documents and papers, and examine, inspect, and search the vessel and use all necessary force to compel compliance. When from such inquiries, examination, inspection, or search it appears that a breach of the laws of the United States rendering a person liable to arrest is being, or has been committed, such person shall be arrested or, if escaping to shore, shall be immediately pursued and arrested on shore, or other lawful and appropriate action shall be taken; or, if it shall appear that a breach of the laws of the United States has been committed so as to render such vessel, or the merchandise, or any part thereof, on board of, or brought in to the United States by, such vessel, liable to forfeiture, or so as to render such vessel liable to a fine or penalty and if necessary to secure such fine or penalty, such vessel or such merchandise, or both, shall be seized.
>
> (b) The officers of the Coast Guard insofar as they are engaged, pursuant to the authority contained in this section, in enforcing any law of the United States shall:
>
> (1) be deemed to be acting as agents of the particular executive department or independent establishment charged with the administration of the particular law; and
>
> (2) be subject to all the rules and regulations promulgated by such department or independent establishment with respect to the enforcement of that law.
>
> (c) The provisions of this section are in addition to any powers conferred by law upon such officers, and not in limitation of any powers conferred by law upon such officers, or any other officers of the United States.

In addition to these general duties, a number of statutes and Executive Orders vest the Coast Guard with specific responsibilities that relate to particular subjects within the ambit of Coast Guard law enforcement jurisdiction. For example, the Coast Guard shares enforcement activities with the Department of Commerce in connection with fishery conservation under the Magnuson Fishery Conservation and Management Act of 1976, as amended, under 16 U.S.C. § 1861. Coast Guard enforcement authority in connection with fisheries conservation also extends to enforcement of a number of other federal statutes and several international fishery agreements. See, e.g., the North Pacific

Fisheries Act of 1954, 16 U.S.C. § 1021 et seq.; the Northern Pacific Halibut Acts of 1937, 16 U.S.C. § 772 et seq.; the Sockeye Salmon or Pink Salmon Act of 1975, 16 U.S.C. § 776 et seq.; the Tuna Conventions Act of 1950, 16 U.S.C. § 951 et seq.; the Whaling Convention Act of 1949, 16 U.S.C. § 916-916l; the Convention for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea; the Convention for the Protection, Preservation, and Extension of the Sockeye and Pink Salmon Fisheries of the Fraser Rier System; and the International Convention for the High Seas Fisheries of the North Pacific Ocean. It is infrequent that such acts or agreements contain explicit language placing enforcement powers in the hands of the Coast Guard. However, the general enforcement powers of the Coast Guard discussed above, as contained in 14 U.S.C. §§ 2 and 89, appear sufficient to support such exercises of enforcement authority. This also seems to be the case in the Coast Guard's law enforcement activity in connection with conservation efforts in regard to marine mammals or fur seals. See, e.g., 16 U.S.C. §§ 1361, 1362, 1371-84, 1401-07; 16 U.S.C. §§ 1151-59, 1161-68, 1171-72, 1181-87.

When operating as customs officers, members of the Coast Guard share the law enforcement authority granted to the Customs Service by statutory and executive means. Shared responsibility in a law enforcement effort and the general Coast Guard law enforcement authority under 14 U.S.C. §§ 2 and 89 both play a role in the federal drug enforcement activities. Here, again, the statutes which specifically address federal offenses involving narcotics may not include language vesting enforcement authority in particular law enforcement entities. Depending upon the facts involved in a given law enforcement effort in connection with narcotics offenses, the Coast Guard, the Customs Service, the Drug Enforcement Administration, the Federal Bureau of

Investigation, the Immigration and Naturalization Service, or a combination of any or all of these organizations, might be involved. The Coast Guard's involvement, among other organizations, in the federal anti-drug strategy was recognized recently in the National Drug Interdiction Improvement Act of 1986, P.L. 99-570, Title III, §§ 3001-03, 3301, 100 Stat 3207-73, 3207-74, 3207-98, 21 U.S.C. § 801 note.

The Coast Guard's enforcement authority with regard to areas such as water pollution prevention, see, e.g., 33 U.S.C. §§ 407 and 409; 33 U.S.C. § 1321, 1322, E.O. 11735, and E.O. 12418; and 33 U.S.C. §§ 1401-45, ports and waterways safety, see, e.g., 14 U.S.C. § 91; 33 U.S.C. §§ 1221-36, and submerged lands, see, e.g., 43 U.S.C. §§ 1333, 1347, 1348, are frequently drawn not only from the general grants of authority in 14 U.S.C. §§ 2 and 89, but also from specific statutory language which places enforcement responsibilities in the hands of the Secretary of the Department in which the Coast Guard is operating, either alone, or in conjunction with the Secretaries of other appropriate departments.

In times of national emergency or instances where the President has determined that the nation's security is at risk, three additional provisions in the United States Code may also come into play. Through 50 U.S.C. §§ 191 and 191a, the Coast Guard is granted the authority to regulate the anchorage and movement of vessels during times of national emergency or risks to United States security. Section 192 of title 50 of the United States Code authorizes criminal sanctions to be imposed where the Coast Guard's regulations or orders under the Section 191 authority are not obeyed.

As this brief examination of sources of Coast Guard enforcement authority suggests, the vehicles by which such authority is vested are widespread and range from general grants of authority to specific language vesting authority with respect to a particular law enforcement function to derivative authority drawn from grants of authority to the Customs Service where the member of the Coast Guard is operating as a customs officer. In times of war or national emergency or at times when the nation's security is endangered, other provisions relating to enforcement authority may be triggered. The breadth of the Coast Guard's enforcement authority, as well as the diversity of sources from which such authority is drawn, provide a useful mechanism for seeing the current federal border management scheme in microcosm. The other agencies and departments which share law enforcement responsibilities connected with border management also share the tendency for their sources of authority to be varied and widespread.

CONCLUSION

Current border management powers are widely scattered among a number of federal entities. These entities include the Bureau of Alcohol, Tobacco, and Firearms, the Coast Guard, the Customs Service, the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, and the Internal Revenue Service. Within each organization the sources of law enforcement powers are diverse in origin and disparate in nature. In a given law enforcement effort relating to border management, some or all of these federal agencies may have authority to deal with particular aspects of the operation being carried out. Coordination of enforcement functions of these federal organizations may assist in maximizing the effectiveness of federal efforts to control illegal activities.[1]

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[1] An example of current legislation which attempts to encourage cooperation among federal organizations in controlling illegal narcotics activities is the National Drug Enforcement Policy statute enacted October 12, 1984, 21 U.S.C. §§ 1201 *et seq.* Executive Order No. 12590 of March 26, 1987, implements this legislation by establishing the National Drug Enforcement Policy Board and elaborating on its functions. The statute noted that the magnitude and scope of the problem of drug enforcement falls across the spectrum of national and international federal activities and requires coordination of all federal efforts. The Policy Board, created to facilitate such coordination, is responsible for developing a unified policy and resources.

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DRUG SMUGGLING

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DRUG SMUGGLING

INTRODUCTION

Perhaps nothing more vividly reveals the vulnerability of U.S. borders today than the ease with which they are breached by the illicit import of narcotics and other dangerous drugs. A problem of varying dimensions since the turn of the century, drug smuggling has assumed a new urgency in the past several decades, with the spread of nontherapeutic drug use into sectors of American society previously untouched. Although a substantial portion of the drugs currently used are of domestic origin,[1] the market is dominated by imports.

The impact of drug smuggling has not been limited to the greater availability of dangerous substances and the health and economic costs of their abuse. The immediate effects on fundamental social order, particularly in but not limited to areas of ingress, have been shown to be profound, two of the most serious being increased violence and the corruption of law enforcement officials. Because of such consequences in some southern parts of the State of Florida, a high-volume drug smuggling area, in 1982 President Reagan established a special task force to concentrate Federal resources there in a coordinated antidrug effort, involving officials from a number of Federal agencies and the participation of State and local authorities.

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[1] Most of the synthetics--such as PCP, LSD, and the so-called "designer drugs"--and as much as 25 percent (1987 estimate) of the marihuana.

The South Florida Task Force, under the direction of Vice President Bush, is generally credited with achieving a substantial reduction in smuggling into the area. However, in consequence of that success, other coastal and border areas began to experience increased levels of activity. This outcome served to emphasize the flexibility and determination of traffickers, and also the immense problem faced by a country with such extensive borders and difficult-to-police coastlines as those of the United States.[2]

The magnitude of the drug problem, and the concern it causes, makes it a principal consideration in any discussion of U.S. border management.

BASIC DATA

Statistics related to the drug abuse problem are generally subject to challenge. Since the activities concerned are illegal--both the trafficking and the consumption--estimates must be made without assistance from the persons involved. The method of calculating the quantity of illicit imports has changed a number of times during the past thirty years, making it difficult if not impossible to establish reliable long-range trend lines. Even the figures on government seizures have been compromised by the hard-to-eliminate practice of double-counting, which occurs when more than one agency becomes involved in a case.[3] However, during recent years, two survey series funded by the National Institute on Drug Abuse (NIDA) have come to be viewed as providing a reasonably accurate indication of the extent of the country's drug problem.

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[2] In recognition of the increasingly nationwide character of the drug smuggling problem, in 1983 the President established an expanded border interdiction program modeled on the South Florida project. The National Narcotics Border Interdiction System (NNBIS), also headed by the Vice President, is a six-region program designed to coordinate the work of Federal drug interdiction agencies--principally the Customs Service and the Coast Guard--and to facilitate the provision by the Armed Forces of equipment and other appropriate assistance to both Federal and local agencies where required.

The two NIDA-sponsored surveys--the National Household Survey on Drug Abuse[4] and the High School Senior Survey[5]--are intended to reveal the approximate levels of drug use in the general population and among high school seniors, respectively. The high school survey is taken annually, the general population survey once every three years.

Both high school and general population surveys show that during the 'Eighties, the illicit drug most widely used has been cannabis sativa, principally in the form known as marihuana. The total amount of marihuana used by Americans in 1985, the most recent year of the general survey, was estimated to have been 4,694 metric tons.[6] Although this reflects a decline from the

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[3] A new system, in effect since the beginning of FY 1987, is designed to solve this problem by the assignment--through the El Paso Intelligence Center (EPIC)--of a unique identification number to each seizure involving over a specific number of kilograms, depending on the drug in question (in the case of cocaine, 1/2 kilo; marihuana, 100 kilos). Experience has shown that such seizures account for over 99 percent of the total. Data from the system are expected to be available within the near future.

[4] Most recent issue: U.S. National Institute on Drug Abuse. National Household Survey on Drug Abuse--1985 Population Estimtes. Rockville, Maryland; Alcohol. Drug Abuse, and Mental Health Administration; 1987.

[5] University of Michigan Institute for Social Research. Use of Licit and Illicit Drugs by America's High School Students. Washington, U.S. Govt. Print. Off., 1975+ (annually). ("Monitoring the Future" project, funded by the National Institute on Drug Abuse) (Hereafter cited as: Monitoring the Future)

[6] Calculations made by the National Institute on Drug Abuse, on the basis of the findings of the Household Survey on Drug Abuse, 1982 and 1985.

1982 level, reinforced by steadily falling use among high school seniors,[7] the number of marihuana-related hosital emergencies reported to the Drug Abuse Warning Network (DAWN)[8] increased nearly 55 percent from 1983 to 1987.[9]

Despite continuing concern over marihuana use, America's most serious drug problem today is generally considered to be the use of the coca plant derivative cocaine, along with the cocaine base form known as "crack". From 1982 to 1985, estimated cocaine consumption in the U.S. rose from 31 metric tons to 72.3 metric tons, an increase of over 130 percent.[10] From 1983 to 1987, the number of cocaine-related emergencies reported to DAWN by participating hospitals increased 400 percent,[11] and cocaine-related deaths reported by medical examiners rose 177 percent.[12]

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[7] Marihuana use appears to have declined substantially during the Eighties. Although the household survey shows an increase, from 1982 to 1985, in the number of people who have ever used the drug (56.3 million in 1982; 61.9 million in 1985), the statistics on use within the 30 days prior to the survey show a decline (from over 11 percent of the reporting population to 10 percent). The high school senior survey shows a more substantial reduction, from 33.7 percent who reported use within the prior 30 days in 1980 to 21 percent in 1987. Monitoring the Future, 1987 (issued in 1988).

[8] DAWN is a program of the National Institute on Drug Abuse that gathers data on drug abuse ermergencies and deaths from hospitals and medical examiners in selected locations (a group of Standard Metropolitan Statistical Areas) throughout the U.S. Semiannual and annual reports are issued.

DAWN data used by the NNICC Reports, and on which CRS calculations are based, represent the DAWN Consistent Panel, comprised only of information from facilities reporting consistently through a given year.

[9] From 3,360 in 1983 to 5,180 in 1987 (Consistent Panel. 1987 total projected from 9 months' data). National Narcotics Intelligence Consumers Committee. The NNICC Report, 1985-1986. The Supply [illegible]llicit Drugs to the United States from Foreign and Domestic Sources in 1[illegible] and 1986. Washington [U.S. Drug Enforcement Administration] 1987. P. 7. (Hereafter cited as: NNICC Report, 1985-1986) Also: National Narcotics Intelligence Consumers Committee. The NNICC Report, 1987. The Supply of Illicit Drugs to the United States. Washington [U.S. Drug Enforcement Administration] April 1988. P. 7. (Hereafter cited as: NNICC Report, 1987)

[10] Calculations made by the National Institute on Drug Abuse, based on the Household Survey on Drug Abuse, 1982 and 1985.

Official estimates of the dollar value of illicit drugs sold in the U.S., at one time published annually in the NNICC Report, were contested by a number of private sector studies and are no longer compiled. However, in a report on drug control issued in 1987, the Office of Technology Assessment included the following calculations of the value of marihuana, cocaine and heroin consumed in the U.S. in 1985:

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[11] From 5,223 in 1983 to 26,186 in 1987 (Consistent Panel. 1987 total projected from 9 months' data). NNICC Report, 1985-1986; and NNICC Report, 1987.

[12] From 328 in 1983 to 909 in 1987 (Consistent Panel. 1987 total projected from 9 months' data). NNICC Report, 1985-1986; and NNICC Report, 1987.

On the other hand, the High School Senior Survey for 1987 showed a decrease in cocaine use for the second year in a row. Percentages of surveyed students who reported cocaine use in prior 30 days, from 1980 through 1987, are as follows:

1980	1981	1982	1983	1984	1985	1986	1987
5.2	5.8	5.0	4.9	5.8	6.7	6.2	4.3

Source: National Institute on Drug Abuse. Monitoring the Future, 1987.

The 1985 National Household Survey on Drug Abuse found that although the number of people who had ever used cocaine was almost unchanged from 1983 (from 21.6 million to 22.2 million), the number of current users (among over-12 population) increased 38 percent (from 4.2 million to 5.8 million). National Household Survey on Drug Abuse, 1985.

Table 1. Drug Traffic Revenues, Retail
(1985 Gross Averages in Billions of Dollars)

Marihuana	$16.8
Cocaine	20.0
Heroin	13.8
Total	$50.6

Source: U.S. Congress. Office of Technology Assessment. The Border War on Drugs. 1987. p 9.[13]

The most recent systematic study of the overall economic costs of drug abuse in the U.S. concluded that in 1983 they were approximately $60 billion.[14] Subsequently, in research that focused specifically on the costs of the problem to States and localities, Wharton Econometrics determined that U.S. police forces are spending nearly one-fifth of their budgets on drug law enforcement, totalling approximately $4.9 billion in 1986.[15]

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[13] OTA based its estimates on a variety of sources. Only drugs actually imported and consumed were considered. The report cautions that the "data could be very inaccurate but these are the most reliable figures OTA could obtain."

[14] Harwood, Henrick J., et al. Research Triangle Institute. Economic Costs to Society of Alcohol and Drug Abuse and Mental Illness: 1980. [Washington; Alcholism, Drug Abuse and Mental Health Administration] June 1984. p. C-16.

[15] Godshaw, Gerald, Ross Koppel and Russell Pancoast. Anti-drug Law Enforcement Efforts and Their Impact. Washington, U.S. Customs Service, 1987. p. 38. (Prepared for the Customs Service by Wharton Econometrics, Bala Cynwyd, Pennsylvania)

In 1987, over 75 percent of the marihuana available in the U.S. came from abroad, of which a approximately sixty percent originated in Mexico and Colombia.[16]

All of the cocaine used in the United States is imported. According to the most recent estimates available, 75 percent originates in Colombia, 15 percent in Bolivia, and five percent in Peru.[17]

Marihuana from Mexico enters the U.S. primarily by overland transport and by general aviation aircraft, while Colombian and other marihuana comes in for the most part by sea. General aviation aircraft has been the principal mode of cocaine smuggling; however, a substantial amount is imported by sea and approximately 10 percent by commercial air.[18] Also, customs officials have recently voiced concern over the apparently increased use by smugglers of bulk-freight containers on merchant ships bound for the United States as hiding places for contraband drugs. Several million containers arrive yearly in various U.S. ports.

The problems encountered in calculating amounts of illicit drugs seized by or with the aid of Federal agencies have further complicated attempts to estimate the effects of interdiction efforts. Past estimates of the percentage of smuggled drugs being intercepted have ranged widely. According to a General Accounting Office report released in 1987, of the cocaine being smuggled into the country during the general 1985-1986 period, approximately 20 percent was seized, and of the marihuana, from 8 to 10 percent.[19]

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[16] NNICC Report 1987, p. 19.

[17] NNICC Report 1985-1986, p. 36. Peru is the world's leading producer of coca leaves, from which cocaine is manufactured.

[18] In 1986, in terms of percentage, cocaine seizures from various smuggling conveyances were as follows: general aviation aircraft--48, non-commercial vessels--23, commercial vessels--13, commercial air--11, land transport--5. NNICC Report 1985-1986, p. 43.

One other important source of quantitative data on illicit drugs is the series of narcotics strategy reports issued by the State Department's Bureau of International Narcotics Matters. The reports include estimates on the production of crops from which the drugs derive. These statistics are sometimes used to estimate U.S. imports. The most recent of the series, issued in March 1988, depicted sharply increased production levels, in 1987, for all three of the principal crops. Coca production was reported as having grown by more than 10 percent overall, since the previous year, in the three major growing countries of Bolivia, Peru, and Colombia; worldwide marihuana production increased by 26 percent during the same period, and opium by 18 percent.[20]

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[19] U.S. General Accounting Office. Drug Smuggling: Large Amounts of Illegal Drugs Not Seized by Federal Agencies. Report to the Chairman, Subcommittee on Information, Justice, and Agriculture, Committee on Government Operations, House of Representatives. Washington, U.S. Govt. Print. Off., 1987. p. 39. (GAO/GGD-87-91)

[20] U.S. Department of State. Bureau of International Narcotics Matters. International Narcotics Control Strategy Report. [Washington, The Bureau] 1988.

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BORDER MANAGEMENT REORGANIZATION AND CONSOLIDATION: SELECTED REFERENCES

The principal focus of this bibliography is:

U.S. border management agencies;
Distribution and coordination of activities among these agencies;
Proposals for reorganization or consolidation of these agencies and their functions

All material contained in the appendix, "Border management reorganization and consolidation: a compilation of proposals and studies," is included in this bibliography. In addition, citations have been included from the computerized bibliographic database created and maintained by the Library Services Division of the Congressional Research Service, and from the computerized catalog to the collections of the Library of Congress.

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Library Services Division
April 29, 1988

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APPENDIXES

BORDER MANAGEMENT REORGANIZATION AND CONSOLIDATION: A COMPILATION OF PROPOSALS AND STUDIES

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May 2, 1988

BORDER MANAGEMENT REORGANIZATION AND CONSOLIDATION: A COMPILATION OF PROPOSALS AND STUDIES

The following compilation sets forth the recommendations and provides excerpts from studies regarding the reorganization or consolidation of U.S. border management agencies. As many as eight civil agencies in seven departments have been involved at the same time in managing and controlling United States borders. During this century, the principal agencies have been the U.S. Customs Service in the Treasury Department; the U.S. Coast Guard, in Treasury until 1965 and in the Department of Transportation since then; and the Immigration and Naturalization Service (INS), now in the Department of Justice.

Reorganization and consolidation proposals have been advanced in order to make border management and control more effective, to improve the economy and efficiency of operations, or to broaden the scope of responsibilities and capabilities of the agencies involved. Concerns have frequently centered on the fragmentation among agencies, jurisdictional overlap and duplication, and impediments to cooperation and coordination. The plans to overcome these problems have crossed a range of distinctive options and alternatives:

—merging existing units into new or different agencies and departments, as with proposals to unify border patrols or create a new border management agency;

--transferring certain functions and duties from one agency to another or abolishing an agency and dividing its duties and responsibilities among others;

--sharing functions and authorities between or among several agencies, for instance, by cross-designating agents from one service to carry out certain activities of another or by designating a single agency to handle all inspection at ports of entry and another all patrolling between them;

--improving cooperation and coordination among the agencies, by setting up joint projects, interagency task forces, and special liaison offices and procedures; and

--reducing jurisdictional overlap and duplication among them.

The recommendations began with a 1912 proposal from President Taft to abolish the Revenue Cutter Service (a forerunner of the Coast Guard) and divide its responsibilities, duties, and resources among other agencies. Major reorganization efforts have occurred in 1930, with a plan to unify the border patrols in Customs and Immigration under the Coast Guard; in 1973, with the aborted attempt to transfer the port-of-entry inspection operations of INS to Customs; and in 1977, with a plan to create a new Federal border management agency. Contemporary proposals have focused on two options: (1) merging the Customs Service and the Coast Guard into a new border enforcement office in the Treasury Department, an idea advanced in the Omnibus Antidrug Abuse Act of 1988; and (2) consolidating the inspectional operations of INS and Customs at ports of entry, based in part on recommendations from the Grace Commission, President Reagan's Cabinet Council on Management and Administration, and the Council on Management Improvement.

The following compilation identifies the reorganization and consolidation proposals that have been offered by the White House, executive agencies, government commissions, consulting firms, and Members, panels, and support agencies of Congress. Other attachments provide examinations of the proposals and their strengths and weaknesses.

I. RECOMMENDATIONS AND FINDINGS BY THE EXECUTIVE AND CONGRESS

A. 1912 Proposal To Abolish the Revenue Cutter Service and Divide Its Responsibilities Among Other Services and Agencies

Message from President Taft (1912)
President's Commission on Economy and Efficiency (1911)

B. 1930 Unified Border Patrol Proposal

Message from President Hoover (1930)
House Interstate and Foreign Commerce Committee Report (1930)
House Debate and Approval of the Proposal (1930)
Wickersham Commission Report (1931), which did not endorse the plan but offered other alternatives to improve border law enforcement

C. 1932 Unified Border Patrol Proposal

Reorganization Plan from President Hoover (1932)

D. 1937 Promotion of Local Consolidations Between Customs and Immigration

Byrd Committee Report, Reprinting a Brookings Institution Study (1937)

E. 1948 Recommendation for the Eventual Establishment of a Border Enforcement Agency and, Until Then, Improved Coordination Between INS and Customs

McKinsey and Company Management Survey of Customs (1948)

F. 1949 Proposed Transfer of the Coast Guard and Certain Customs Marine Functions from Treasury to the Commerce Department

First Hoover Commission (1949)

G. 1950 Call for Consolidating Customs and Immigration Functions in Certain Isolated Instances Only

Senate Judiciary Committee Report (1950)

H. 1962 Proposed Further Combinations of the Roles of U.S. Border Forces Engaged in Preliminary Screening Inspection Work

O'Connell Citizen Task Force Report for Customs (1962)

I. 1964 Endorsement of the Recommendations of the 1962 O'Connell Report and of Other Proposals To Improve Interagency Cooperation and Liaison

Stover Report on Customs Mission Organization (1964)

J. 1968 Recommendation for Improvements in Interagency Cooperation, Including Cross-Designating Inspectors and Testing One-Stop Inspections, and Suggested Consideration of a Single Agency To Inspect All Passengers and Baggage

Interagency Report on Inspection at Ports of Entry (1968)

K. 1973 Reorganization Plan Establishing the Drug Enforcement Administration (DEA) and (later repealed) Transferring Immigration's Port-of-Entry Inspection to Customs

Plan and Message from President Nixon (1973)
House Government Operations Committee Report To Repeal the Transfer (1973)
Senate Government Operations Committee Report To Repeal the Transfer (1973)
Legislation To Repeal the Transfer (1974)

L. 1974 OMB Border Plan for a Single-Agency Management Strategy

House Government Operations Committee Report on Border Law Enforcement and Problems of Customs-INS Coordination (1974)
Justice Department Analysis of a Secure Border (1974)

M. 1975 Call For Improvements in Interagency Cooperation and an End to Jurisdictional Disputes Between DEA and Customs

Domestic Council Drug Abuse Task Force White Paper on Drug Abuse (1975)

N. 1977 Recommended Merging Customs and INS Into a New Multi-Purpose Border Management Agency

Interagency Review of Border Management and Interdiction (1977)

O. 1977 Plan for a Federal Border Management Agency from the President's Reorganization Project (PRP)

PRP Law Enforcement Task Force Draft Report on Reorganization Options Related to Border Management (1977)
PRP Study of Federal Law Enforcement, Police, and Investigation (1978)

P. 1981 Recommendation That the On-Going System of Divided Responsibility Be Retained

Select Commission on Immigration and Refugee Policy Final Report (1981)
Interagency Task Force on Immigration Policy Preliminary Study (1979)

Q. 1981 Recommendation To Consider Transferring INS Border Patrol to Customs

Attorney General's Task Force on Violent Crime (1981)

R. 1983 Proposal To Consolidate Customs-INS Border Inspection

Cabinet Council on Management and Administration Proposal (1983)
Congressional Research Service Analysis (1983)

S. 1983 Proposal To Consolidate Customs-INS Border Inspection

Grace Commission Task Forces on the Departments of Treasury and Justice Findings and Recommendations (1983)
GAO Views on the Grace Commission Recommendations (1985)
Legislation Introduced in the 99th and 100th Congresses (1985 and 1987)

T. 1983 Proposals for Improved Interagency Cooperation and Coordination

House Government Operations Committee Interim Report on the War Against Drug Smuggling (1983)

U. 1986 Recommendation for Improvements in Border Interdiction and Intelligence

President's Commission on Organized Crime (1986)

V. 1987 Call for Improvements in Interagency Coordination and Cooperation

Senate Caucus on International Narcotics Control Staff Report (1987)

W. 1987 Proposal To Merge All Major Federal Drug Law Enforcement Agencies Into an Existing Department, If Other Leadership Improvements Are Not Made

House Government Operations Committee Report on The National Drug Policy Board: A Failure in the War on Drugs (1987)

X. 1988 Proposal To Consider Merging All Federal Narcotics Interdiction Agencies Into a Single Department

House Government Operations Committee Report on Operation Alliance: Drug Interdiction on the Southwest Border (1988)

Y. 1988 Legislative Proposals To Merge Customs, Coast Guard (Transferred from Transportation), and/or INS (Transferred from Justice) Into a New Treasury Office of Enforcement and Border Affairs, and To Set Up a Southwest Border Interagency Task Force

Omnibus Antidrug Abuse Act: Titles III and V of Bill and Introductory Statements (1988)
Coast Guard and National Border Coordination Revitalization Act: Bill and Introductory Statements (1988)

Z. 1988 Call To Consolidate Border Inspection Operations

President's Council on Management Improvement "Project 2000" Report on Border Management (1988)

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B. History of the Immigration and Naturalization Service (1980)

C. Brief History of the United States Coast Guard (1982)

D. Proposals To Reorganize Immigration and Border-Related Functions (1982)

E. Proposals To Improve Border Patrol and Inspection (1985)

F. Drug Control at the Federal Level: Coordination and Direction (1987)

III. GENERAL ACCOUNTING OFFICE REVIEWS AND RECOMMENDATIONS

A. A Single Agency Needed To Manage Port-of-Entry Inspections (1973)

B. More Needs To Be Done To Reduce the Number and Adverse Impact of Illegal Aliens in the United States (1973)

C. Federal Drug Enforcement: Strong Guidance Needed (1975)

D. Smugglers, Illicit Documents, and Schemes Are Undermining U.S. Controls Over Immigration (1976)

E. Immigration--Need To Reassess U.S. Policy (1976)

F. If Defense and Civil Agencies Work More Closely Together, More Efficient Search/Rescue and Coastal Law Enforcement Could Follow (1977)

G. Illegal Entry at United States-Mexico Border--Multiagency Enforcement Efforts Have Not been Effective in Stemming the Flow of Drugs and People (1977)

H. Gains Made in Controlling Illegal Drugs, Yet the Drug Trade Flourishes (1979)

I. One-Stop Inspection System Speeds the Entry of International Travelers (1982)

J. Federal Drug Interdiction Efforts Need Strong Central Oversight (1983)

K. The Coordination of Requests for Military Assistance to Civilian Law Enforcement Agencies (1983)

L. Organized Crime Drug Enforcement Task Forces: Status and Observations (1983)

M. Coordination of Federal Drug Interdiction Efforts (1985)

N. Drug Investigations--Organized Crime Drug Enforcement Task Forces: A Coordinating Mechanism (1986)

O. Drug Smuggling--Large Amounts of Illegal Drugs Not Seized by Federal Authorities (1987)

P. Cocaine Seizures Along the U.S.-Mexico Border (1988)

Q. National Drug Policy Board: Leadership Evolving (1988)

R. Controlling Drug Abuse: A Status Report (1988)

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I. RECOMMENDATIONS AND FINDINGS BY THE EXECUTIVE AND CONGRESS

62D CONGRESS }
2d Session }

HOUSE OF REPRESENTATIVES

{ DOCUMENT
{ No. 670

ECONOMY AND EFFICIENCY IN THE GOVERNMENT SERVICE

MESSAGE OF THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REPORTS OF THE COMMISSION ON ECONOMY AND EFFICIENCY

APRIL 4, 1912.—Referred to the Committee on Appropriations
and ordered to be printed

WASHINGTON
1912

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MESSAGE.

To the Senate and House of Representatives:

On the 17th of January last I sent a message to the Congress describing the work of the commission appointed by me under authority of the acts of June 25, 1910, and March 3, 1911, granting appropriations to enable me to inquire into the methods of transacting the public business of the various executive departments and other governmental establishments, and to make report as to improved efficiency and greater economy to be obtained in the expenditure of money for the maintenance of the Government. By way of illustrating the utility of the commission and the work which they were engaged upon, I referred to a number of reports which they had filed recommending changes in organization of the departments and bureaus of the Government, the avoidance of duplication of functions and services, and the installation of labor-saving devices and improved office methods. All of the recommendations looked to savings of considerable amounts. With the message of February 5, 1912, I transmitted to the Congress the reports on the centralization of distribution of Government documents, on the use of window envelopes, and on the use of a photographic process for copying records.

A number of the reports of the commission had not then been commented on by the heads of the departments that would be affected by the changes recommended, and therefore I did not feel justified at that time in recommending to the Congress the statutory amendments necessary to carry out the recommendations of the commission. Since then, however, I have received the recommendations of the heads of departments, and I transmit this message for the purpose of expressing my approval of the changes recommended by the commission and of laying before the Congress the reports prepared by the commission.

REVENUE-CUTTER SERVICE.

The report of the commission on the Revenue-Cutter Service (Appendix No. 3) represents a detailed investigation of the history, organization, and activities of this branch of the Government service and its relations to other services. The conclusion is reached that all of the duties now being performed by this service can be performed with equal efficiency by other services and that a great economy will result by having these duties so performed. The commission accordingly recommends that the service be abolished as a distinct organization; that its equipment be distributed among other services requiring the use of marine craft; and that provision be made for the performance of the work now being done by it by such other services.

With these fundamental recommendations of the commission I am in full accord, and I recommend that the necessary legislation be enacted to put them into effect.

At the present time the Revenue-Cutter Service is organized as a naval establishment. The country is, in effect, maintaining two navies, and is using one of these navies for the performance of duties of a civil character. The maintenance of two separate naval establishments entails unnecessary expense and is not in the interest of either efficiency or economy. In so far as the duties of the Revenue-Cutter Service are of a naval character, or are such as can readily be performed by the regular Naval Establishment, they should be performed by such establishment; in so far as they are of a purely civil character, use should be made of services organized and conducted upon a civil basis.

In respect to the distribution of the equipment and duties of the Revenue-Cutter Service among other branches of the Government, the recommendation of the commission looks to the transfer to the Navy Department of the vessels which are adapted to deep-sea cruising and the discharge by the Naval Establishment of most of the duties now performed by the Revenue-Cutter Service upon the high seas. In memoranda submitted on the report of the commission, copies of which are submitted with such report, on the one hand the Secretary of the Navy raises the question as to whether these duties can be performed by the regular Naval Establishment without detracting from its military efficiency, while on the other hand the Secretary of Commerce and Labor raises the question whether certain of these duties can not be performed by the Lighthouse Service if that service is provided with vessels suitable for the purpose.

In view of these suggestions I recommend that, in the enactment of legislation providing for the abolition of the Revenue-Cutter Service, provision be made for the transfer of all the vessels and equipment of the Revenue-Cutter Service from the Treasury Department to the Department of Commerce and Labor; that the Secretary of Commerce and Labor be directed to assign such vessels and equipment to the Lighthouse Establishment, Bureau of Fisheries, and other services under his jurisdiction requiring the use of vessels, as, in his judgment, is for the best interest of the public service, and that authority be given to him to turn over to the Navy such vessels as he may find, upon investigation, not to be required by his department and which by their character are fitted to serve as useful auxiliaries to the Naval Establishment.

In thus recommending that the Revenue-Cutter Service as a separate establishment be abolished, I desire to make plain that such action does not carry with it the discontinuance of the rendering of any valuable and proper service now being rendered by that organization. On the contrary, I am persuaded that all such services will continue to be performed under the system recommended by me with equal or greater efficiency.

It should be noted that the adoption of the recommendation here made will result in bringing under one general administration all of the work of the Government having to do with the protection of life and property at sea. This will result not only in greatly increased efficiency, but in a large saving. The Lighthouse Establishment is compelled by the nature of the work to maintain and operate a large fleet of vessels and supplementary administrative divisions, depots, inspection services, etc., to attend to matters pertaining to their business management. It is thus fully prepared to take over and operate the additional vessels that may be assigned to it and to perform the additional duties with which it may be intrusted at an added expense that will be small in comparison with that now entailed in maintaining an independent service on a military basis.

A further benefit of no little importance that will also be secured will be that of relieving the Department of the Treasury of duties which are in no ways germane to the primary function of that department.

Wm. H. Taft.

The White House, *April 4, 1912.*

APPENDIX No. 3

REVENUE-CUTTER SERVICE OF THE DEPARTMENT OF THE TREASURY

89

REVENUE-CUTTER SERVICE OF THE DEPARTMENT OF THE TREASURY.

NOVEMBER 17, 1911.

The PRESIDENT:

The Commission on Economy and Efficiency has the honor to submit the following report in reference to the Revenue-Cutter Service of the Department of the Treasury. Its recommendation in respect to this service is that it be abolished and that the duties now being performed by it be distributed among other existing organizations of the Government.

INTRODUCTION.

In the consideration which the commission has given to the organization and activities of the services of the Government having to do with maritime affairs special attention has been given to the Revenue-Cutter Service. After a careful study of the work now being performed by this service the commission is convinced that the service has not a single duty or function that can not be performed by some other existing service, and be performed by the latter at much smaller expense on its part. The commission therefore recommends that the Revenue-Cutter Service as a separate branch of the Government be abolished, and that the duties now being performed and the equipment used by it so far as this may be necessary be distributed among other branches of the Government.[1]

The maintenance of this service at the present time involves an expenditure of approximately two and a half million dollars annually. The commission believes that its abolition as a separately organized branch will result in a direct saving of a large part of this sum; and that, after the work of distributing the duties now being performed by the service among other branches of the Government service is definitely accomplished, the net saving to the Government will be at least $1,000,000 annually. This economy, it believes, will be effected not at the expense of efficiency, but that, on the contrary, all the duties now being performed by the service will be equally, if not more efficiently, discharged by other services.

The importance of the issue makes it desirable that a full statement of the facts regarding this service be set forth, with the considerations that led the commission to reach its conclusion on the subject. The effort has been made therefore to compile, and to present in exhibits to this report, the detailed data regarding the history, organization, and activities, and legal powers and duties of the service, and to reproduce in full all official documents which throw light upon the questions to be considered. Care has been taken to include a full statement of the efforts that were put forth for nearly a century looking to the transfer of the Revenue-Cutter Service from the Treasury Department to the Navy Department. Although these efforts were directed to the accomplishment of a purpose differing materially from the present recommendations of the commission, many of the arguments advanced in favor of and against such transfer have a direct bearing upon the issue now raised.

---

[1] This recommendation is made at this time for the purpose of laying this important matter before the President at the earliest possible date. The commission believes that before any definite decision is reached the Department of the Treasury, the Department of the Navy, and the Department of Commerce and Labor—the three departments whose interests are most affected by the recommendation—should be furnished with copies of this report, in order that their comments on the facts stated and the conclusions reached may be secured. It is possible that such comments may result in a modification of the recommendation here made. In a way, therefore, the present report must be considered as raising an important issue in definite form and as the statement of the views of the commission as the result of its independent inquiry.

The commission appreciates that, had it been possible for it to do the work, an intensive investigation of the manner in which the service at the present time conducts its affairs would have been of value in itself, and also would have thrown additional light on the subject of the general status or necessity for the existence of the service. It must be borne in mind, however, that the question raised by the commission's recommendation is not whether the Revenue-Cutter Service is or is not being efficiently operated. It is assumed that it is. The question is a much larger one, namely, whether such a service should be maintained at all as a separately organized branch of the Government. It is believed that the material here assembled furnishes sufficient data for an intelligent consideration of this question.

GENERAL DESCRIPTION OF THE SERVICE.—ITS ORGANIZATION AND DUTIES.

The exhibits to this report give an account, in detail, of the history, organization, and activities of the Revenue-Cutter Service, and it is necessary, therefore, to state here only a few facts of general importance.

CREATION OF THE SERVICE.

The establishment of a Revenue-Cutter Service was urged by Alexander Hamilton, the first Secretary of the Treasury, in a report to the House of Representatives, dated April 22, 1790. This recommendation was acted upon by Congress and the service was definitely created by act of August 4, 1790.

Although Mr. Hamilton had recommended that the officers of the service "be commissioned officers of the Navy," it was provided in the act of August 4, 1790, that they should "be deemed officers of the customs." Since its creation the service has been under the Department of the Treasury.

DUTIES OF THE SERVICE.

Established as a coast patrol to prevent smuggling and assist in the enforcement of the customs laws, the service has had duties successively added until at the present time the duties relate to almost all marine matters over which the Government exercises jurisdiction. The following is an enumeration of the duties as stated in the Official Regulations and in reports made by the service to the commission:

1. Protection of the customs revenue.
2. Cooperation with the Navy.

CONCLUSION.

The commission has not thought it necessary to enter into a more elaborate argument in support of its recommendation, since many of the arguments have already been stated with great force by committees of Congress in reporting favorably upon bills looking to the transfer of the service to the Navy Department. Especially is this true of the report made in 1892—the last occasion when a serious effort was made to have this action taken. So clearly is the position of the commission stated that it is believed that the report should be read with care. It states:

> The question whether the revenue marine is civil or military, or whether it is more civil than military, is to be found fully considered in the documents to which reference has been made. There can be little doubt that in form and substance all the ships, with their appurtenances and their officers and men, are military in all their substantial characteristics and that their duties are in the main as essentially military as those performed off and along our own ocean coasts by the vessels of the Navy. The 24 armed revenue cutters which cruise outside our harbors could, under the present modern methods of commerce, be entirely dispensed with without seriously affecting the collection of the revenues of the Government or materially impairing any functions necessary to the conduct of the legitimate business of the Treasury Department. * * *
>
> Upon a deliberate review of the whole subject the committee can not avoid the conclusion that the public interests, according to modern conditions affecting both the work which has been performed by the revenue marine and that of the Navy, require the present union on just terms of the two services. We are confronted with the existence of two American navies, one, the larger or principal navy, with 269 guns, 74 ships, 1,316 officers, 8,188 seamen, the other, the smaller or Treasury navy, comprising 62 guns, 34 ships, 220 officers, and 711 seamen. These two navies are essentially alike and completely military in their material characteristics, and, so far as our own 5,700 miles of continental coast line and the 4,700 miles of Alaskan waters are concerned, they are both engaged in time of peace in similar duties, and each would be engaged in the same duties as the other in the time of war.
>
> It is time that this anomaly should end and that both the American navies should, for the purpose of construction, organization, and discipline, be placed under the control and direction of one departmental head, and that should be the military one of the Secretary of the Navy.
>
> For certain duties, and as occasion may arise, the ships and officers and men of the Navy will be detailed by the Navy Department, as they now are, for service according to the needs and direction of the Secretary of the Treasury, the Secretary of War, and the Secretary of State. * * *
>
> The committee believe that in recommending the transfer from this huge and overburdened Treasury Department of the supervision of the naval ships, guns, officers, and seamen the real efficiency of that department in the performance of its legitimate and indispensable work will not be injured, but, indeed, will be largely increased.
>
> In time of peace the Secretary of the Navy can devote more personal attention to promoting the efficiency of the vessels of the revenue marine than can be given by the Secretary of the Treasury. In time of war, necessarily and immediately, the command of the outside cruising revenue cutters passes at once to the Secretary of the Navy. He should therefore in time of peace retain the control of the construction and preservation of such vessels and of the organization and discipline of their officers and seamen.
>
> The subject of the transfer of the revenue cutters to the Navy Department has been under discussion for about 10 years. The facts and arguments are fully before the public. The delay in reaching a decision is exceedingly detrimental to the national interests, and the question should receive an early and decisive settlement at the present session of Congress.

In concluding this report the commission desires again to make it clear that its recommendation is essentially different in purpose from the various efforts made in the past affecting the status of the Revenue-Cutter Service. The recommendation of the commission is that the service be abolished as a separate service, and that its duties be taken over by other services—not that a transfer of the service in toto be made. The position of the commission is, not that the service as at present organized and conducted should be in one department instead of in another, but that there is no need for such service at all; that the duties performed by it can be performed by other existing services at much less cost.

It has been pointed out that the administrative machinery of the Revenue-Cutter Service now consists of:

1. An office of general administration at Washington.
2. Four district offices at New York, New Orleans, San Francisco, and Port Townsend.
3. A construction and repair station at Baltimore.
4. A depot at Arundel Cove, Md.
5. A general store at San Francisco.
6. A school of instruction with a practice cutter at New London, Conn.
7. Twenty-six cruising cutters.
8. Sixteen harbor cutters, consisting of nine tugs and seven launches.

It is immediately apparent that, with the abolition of the service, all need for the first six of these administrative units or parts will disappear. There being no special service to administer, the office of general administration and the four district offices will not be needed. The Navy Department is already fully equipped to do all construction and repair work, so that there will be no need for the construction and repair station at Baltimore. In the same way the general depots and storehouses of the Navy Department are fully able to meet all demands that will come upon them, so that the depot at Arundel Cove, Md., and the general store at San Francisco can be abandoned. The need for the school of instruction at New London will also cease to exist, since the only real necessity for such a school at the present time is in order to give the officers of the Revenue-Cutter Service instruction in technical military matters, and that instruction the officers of the Navy will receive at the Naval Academy.

In respect to the cruising cutters it is recommended that they be transferred to the Navy Department. When so transferred the commission sees no reason why they can not be incorporated into the general Naval Establishment, and be available for any work to be done by that establishment. This transfer is recommended simply as representing the best disposition that can be made of these vessels. In point of fact, the commission believes that the Navy, with its necessary ships, will be able to do all of the deep-sea cutter work required, with fewer vessels devoted entirely to the duties performed by the Revenue-Cutter Service, than is possible when these duties are performed by a separately organized branch. Further, that the necessity for the construction of additional vessels would be correspondingly decreased. The Naval Establishment will always embrace auxiliary ships, small cruisers, and other vessels that are not up to the required standards of efficiency for war. These can be used for services civil in character, and may be used in a measure to relieve the need for new construction. In the same way it is believed that the necessity for the employment of additional officers and men for the operation of these vessels will be less than if the service were independently operated.

If the recommendation of the commission is favorably considered the question will then arise as to the provision that should be made for the existing personnel of the Revenue-Cutter Service, and for the arrangement of the details incident thereto. This is a matter that the commission believes should not be considered by it until knowledge is obtained as to whether it is proposed to carry into execution the action recommended.

Frederick A. Cleveland,
Chairman.
W. F. Willoughby.
Walter W. Warwick.
Frank J. Goodnow.
Harvey S. Chase.
Merritt O. Chance,
Secretary.

Exhibit 1B.

History, Organization, and Activities of the Revenue-Cutter Service.

CREATION OF THE SERVICE.

The Revenue-Cutter Service is one of the oldest distinct services of the Government. Its creation was urged by Alexander Hamilton, the first Secretary of the Treasury, in a communication addressed to Congress under date of April 22, 1789, and the service itself was established by act of August 4, 1790.

This act provided that the President should be empowered to build and equip "so many boats or cutters, not exceeding 10, as may be necessary to be employed for the protection of the revenue, the expense whereof shall not exceed $10,000, which shall be paid out of the product of the duties on goods, wares, and merchandise imported into the United States and on the tonnage of ships or vessels." It further made provision for the officers of the boats and their compensation and conferred necessary power upon these officers to board vessels and discharge their duties. The officers were declared to be "officers of the customs." The service was consequently placed under the jurisdiction where it has ever since been.

The subsequent history of the service is largely that of having conferred upon it by law or Executive order the performance of additional duties until its activities at the present time relate to a great many matters. The clearest statement of this history can thus be obtained by tracing step by step the assumption by the service of these additional duties.

ENFORCEMENT OF CUSTOMS AND TONNAGE DUES.

As originally created the service was given but one function to perform—that of assisting in the enforcement of the payment of the customs and tonnage dues. This function still constitutes one of the most important, if not the most important, duty of the service. The

5. Reply of general superintendent to memorandum of committee, April 21, 1911.

This report, though relating primarily to the Life-Saving Service, contains valuable information bearing upon the relations between that service and the Revenue-Cutter Service.

44. Hamilton's Works. 7 vols. Vol. IV. N. Y. C., 1850.

Contains, on page 46, a report on Hamilton's inquiry into size, cost, and estimate of immediate need of vessels. Report is in form of a letter to President, dated September 10, 1790.

45. Revenue-Cutter Service, report on the. Gallatin, A. 4 pp. 10th Cong., 2d sess., Ex. Docs. (Dec. 2). Wash., 1808.

46. Our Coast Guard. Ross, W. C. Harper's New Monthly. Nov., 1886.

Gives history of origin and growth of service, its aims and duties.

47. United States Revenue-Cutter Service in the War with Spain. 49 pp. G. P. O. Wash., 1899.

48. School of Instruction of the United States Revenue-Cutter Service. 12 pp. G. P. O. Wash., 1905.

DEPARTMENT OF COMMERCE AND LABOR,
Washington, January 10, 1912.

SIR: I have the honor to return herewith the report of the Committee on Economy and Efficiency relating to the Revenue-Cutter Service of the Treasury Department, transmitted with your letter of the 27th ultimo.

The Department of Commerce and Labor, for the enforcement of various laws, needs vessels outside of its own fleet (46 seagoing lighthouse tenders, 64 light vessels, 18 seagoing Coast and Geodetic Survey vessels, and 5 seagoing Fisheries vessels), and it has been customary to use some of the 45 vessels of the Revenue-Cutter Service.

The navigation laws (including steamboat-inspection laws, anchorages, St. Marys River, motor-boat law, rules to prevent collisions, regatta regulations, etc.) are, with rare exceptions, enforced on the waters within territorial limits and on relatively smooth water. Armed seagoing revenue cutters are not particularly adapted to these purposes, and as a rule better results may be secured by the use of smaller and less expensive vessels. The department's six months' experience with an appropriation of $15,000 has confirmed this opinion.

Seagoing vessels of the Revenue-Cutter types are, however, needed to enforce the laws for the protection of the seal fisheries and similar duties in Bering Sea. It is, of course, of no consequence to this department whether these vessels so employed are attached to the Treasury Department or to the Navy Department. In fact, there would be some plain advantages in having vessels for these purposes attached directly to the Department of Commerce and Labor and administered together with the larger fleet already under its control.

Patrol of coast waters to aid vessels in distress is closely allied to the purposes for which the Life-Saving and Lighthouse Services are established. In fact, the regular work of lighthouse tenders requires them to move constantly along the coasts. In so far as the Revenue-

Cutter Service engages in this work a better result would probably be secured if the three services were under one general administrative direction.

Respectfully,
CHARLES NAGEL,
Secretary.

The PRESIDENT,
The White House.

55270–N]
DEPARTMENT OF COMMERCE AND LABOR.
Washington, January 10, 1912.

ECONOMY AND EFFICIENCY REPORT ABOLITION OF REVENUE-CUTTER SERVICE.

The Department of Commerce and Labor needs vessels to enforce various laws, and outside of its own fleet (46 seagoing lighthouse tenders, 64 light vessels, 18 seagoing Coast and Geodetic Survey vessels, and 5 seagoing Fisheries vessels) it uses for convenience some of the 45 vessels of the Revenue-Cutter Service.

1. The navigation laws (including steamboat-inspection laws, anchorages, St. Marys River, motor-boat law, rules to prevent collisions, regatta regulations, etc.), are enforced on the water with rare exceptions within territorial limits and on relatively smooth water. Armed seagoing revenue cutters are not adapted to these purposes, and better results may be secured much more generally by the use of smaller and much less expensive vessels. The department's six months' experience with an appropriation of $15,000 has demonstrated these facts.

2. Seagoing vessels of revenue-cutter types are needed to enforce laws for the protection of the seal fisheries and similar duties in Bering Sea. It matters little to this department whether the vessels thus employed are attached nominally to the Treasury or Navy Departments. There are some plain advantages in having vessels for these purposes attached directly to the Department of Commerce and Labor, and administered together with the larger fleet already under its control.

3. Patrol of coast waters to aid vessels in distress is allied to the purposes for which the Life-Saving and Lighthouse Services are established—in fact the regular work of lighthouse tenders requires them constantly to move along the coasts. In so far as the Revenue-Cutter Service engages in this work, its energies probably would be more effective if the three services were under one general administrative direction.

FEBRUARY 8, 1912.

MY DEAR MR. PRESIDENT:

I have your letter of January 22 with a redraft of the general report on the Revenue-Cutter Service. In the main I shall be compelled to restate the conclusions which are contained in my earlier letter of January 10, but perhaps I may be permitted to express my views upon the general recommendation of the commission more fully.

With the conclusions reached by the commission I agree. It is apparent that the conditions which gave rise to the organization of the Revenue-Cutter Service have practically ceased to exist. It is equally clear that the duties which have since then been added to this service are such that they can be more advantageously distributed among the several departments which are peculiarly charged with them.

Assuming, therefore, that at the present time there is no sufficient reason for the continuance of the Revenue-Cutter Service as a separate organization, the immediate question is, How shall the distribution be had? To my mind the argument of the commission for the transfer of the cruising cutters to the Navy is conclusive. Such a change would make for economy and, as I see it, for efficiency. I do not believe that the proposed transfer would in any measure embarrass other departments that have enjoyed the assistance of the Revenue-Cutter Service. In so far as such assistance continues to be necessary, it can be rendered by assignment from the Navy just as promptly and satisfactorily as is true now.

The Department of Commerce and Labor, as was stated in my earlier letter, has had comparatively little use for seagoing vessels. Such use has been limited substantially to Bering Sea, and even in those waters to the protection of the seal herds. It appears to me that such protection can be given by the revenue cutters if they are under the control of the Navy just as satisfactorily as has so far been done.

As was stated in my earlier letter, the navigation laws, including steamboat-inspection laws, anchorages, St. Mary's River, motor-boat laws, rules to prevent collisions, regatta regulations, etc., are, with rare exceptions, in force on the waters within territorial limits, and on relatively smooth water. As a general rule, this service can be more satisfactorily intrusted to the smaller and less expensive vessels, and the Department would really have very little, if any, use for revenue cutters in this service provided the smaller craft is supplied.

The patrol of coast waters to aid vessels in distress, to my mind, presents the most difficult question. It is my impression that some revenue cutters should be reserved for this service, and it does not appear to me that such revenue cutters should be under the control of the Navy. On the contrary, I am of the opinion that such service is closely allied with the Lighthouse and Life-Saving Services, and should be consolidated with them. I can see no sufficient reason why the Lighthouse Service and the Life-Saving Service should not be combined. In my judgment, such a consolidation would make for economy and efficiency, and if it is had, I think a number of revenue cutters should be connected with that service. It is true that our lighthouse tenders constantly move along the coast and may be trusted to do a considerable part of this work, but it is also true that these tenders are required to make their trips at stated times, to reach certain points at given dates, and that this regular service may not hold them sufficiently free to meet conditions resulting from the dangers of the sea. In my judgment, it would be advisable, therefore, to retain a few revenue cutters so that they may be free to patrol the coast waters and to render such service in connection with navigation, steamboat inspection, etc., as may be called for. In other words, I would be in favor of making experiments under the revised plan in order that the details of the system may be worked out in the light of actual experience.

Very sincerely, yours,
CHARLES NAGEL,
Secretary.

The PRESIDENT,
The White House.

FEBRUARY 7, 1912.

SIR: In reply to your letter of January 22, regarding the Revenue-Cutter Service, I have the honor to inclose a memorandum which gives the department's views on this subject.

Respectfully,
G. V. L. MEYER.

The PRESIDENT,
The White House.

FEBRUARY 7, 1912.

[Memorandum: Subject: Report of Cleveland Economy Board upon the Abolishment of the Revenue-Cutter Service.]

The functions of the two services are not similar (see p. 10); the chief function of the Navy is the preparation and maintenance of the personnel and matériel in readiness for war; a further function is the protection of American citizens and property in foreign countries.

The chief functions of the Revenue-Cutter Service on the high seas are—

(1) The assistance of vessels in distress.
(2) The protection of seal fisheries and sea-otter hunting grounds.
(3) The destruction of derelicts at sea.

It is not believed that the personnel of the Revenue-Cutter Service can aid in the maintenance of the fleet in its readiness for war and it is doubtful if the Navy Department would wish to intrust it with the handling of delicate diplomatic questions constantly arising in Central America, the West Indies, and elsewhere.

It is true that the chief functions of the Revenue-Cutter Service can be performed by the Navy, but this can not be done as stated in the Cleveland report (p. 13) in the regular performance of their military duties. All duties which interfere with the training of the personnel for war are irregular and in a degree detrimental to the efficiency of the fleet.

We agree with the report of the board that it would be economy to abolish the Revenue-Cutter Service as a separate branch of the Government. It is believed that certain duties now performed by that service of a maritime nature could be provided for by the Navy. It is not believed to be to the best interests of the Navy or of the Government to transfer the personnel of the Revenue Marine to the Navy.

The naval service has had its efficiency affected in the past by the conflicting interests of the various corps upon the subject of rights, pay, precedence, division of duties, privileges, etc. It has made great progress recently in overcoming these adverse conditions and in establishing a harmonious personnel, realizing a harmonious personnel is just as important as a homogeneous fleet.

There are in the Revenue-Cutter Service 390 officers and cadets and it is believed that the difficulties of transferring them to the personnel of the naval service would accentuate the conditions referred to above to an unfortunate degree. Such a transfer would be of no possible advantage to the Navy, but a serious menace to the harmony of the personnel.

If, however, it should be decided that the Revenue-Cutter Service is to be abolished and the Navy required to take up a portion of its work, it would seem imperative that the vessels of the Revenue Marine be transferred to the Navy, which is already suffering from an insufficient number of small vessels. The enlisted personnel could readily be absorbed in the Navy, the total enlisted strength of the latter being permanently increased by the number so absorbed. The question of the amalgamation of the commissioned and warrant personnel present greater difficulties and is one which can best be solved by a joint board of officers of the two services. In this connection it is proper to note the ratio existing in the Revenue-Cutter Service between the numbers of officers and of men. There are 360 commissioned and warrant officers and 1,390 in the enlisted force, a ratio of 1 to 4; in the Navy the ratio is 1 officer to about 16 men.

TREASURY DEPARTMENT,
Washington, February 26, 1912.

DEAR MR. PRESIDENT:

The recommendation to abolish the Revenue-Cutter Service made to you by the Commission on Economy and Efficiency came out of a clear sky. No one connected with the service or with the Treasury Department, with which the service has been connected from the beginning in 1790, knew that the project was being considered. And it never had been considered before. It had been suggested a good while ago that the Revenue-Cutter Service should be transferred to the Navy Department; but the thought of abolishing it is new, and the recommendation by the commission has been keenly felt by the revenue-cutter officers and men. It came at a time when the service was performing conspicuous and heroic work and when its fit equipment and its high usefulness were in immediate and conspicuous evidence.

The reception given the suggestion of the commission by the press and by the public was a salve to the wounded pride of the officers and men. The subject at once arrested public attention, and no newspaper, no commercial organization, and no individual in Washington or throughout the country, so far as I am advised, has approved the suggestion.

I send herewith, as a part of my review, a memorandum of the captain commandant, written after a most careful consideration of the commission's report by himself and by his bureau. And I also ask that a printed copy of a short speech I made at Newport News on February 10, at the time of the launching of two revenue cutters, be made a part.

And I beg to state in addition a few considerations, as follows:

1. The Revenue-Cutter Service has at no time since it was established by Alexander Hamilton in 1790 been less than highly efficient and indispensable. It, however, has constantly grown in both these respects, though the work which it was originally organized to perform has largely diminished and in some instances has passed out entirely. The growth of the Government and the country has so added to the original duties that the work of the Revenue-Cutter Service is more important than ever before. And, on the other hand, the long period of training, discipline, tradition, and esprit has done what it should have done—made the service more and more efficient and more and more honorable and distinguished.

To abolish a service with such a record and such present significance would be unprecedented. If the occupations of the service were no longer sufficient, or if its efficiency and discipline and esprit de corps had diminished, it would be one thing. But all of these features are at their best to-day, and the service is at the highest point of its 120 years.

2. A tendency to think a service is misplaced if it does not exclusively act for a single department is evident in this recommendation, though it is at the same time proposed to have the Navy Department do the same work, even more largely, for other departments, including the Treasury. No department can or should be complete within itself, nor even homogeneous, nor contained within impassable outlines. Nor is it possible or desirable that no two departments shall do the same sort of work under any circumstances. I came to Washington with a different notion, and it has taken three

years to sufficiently modify it. There are a few cases where a consolidation or amalgamation of two or more bureaus or services could be properly made, and there are certain activities less than bureaus that could be differently affiliated; but that there is a wholesale opportunity for this kind of reorganization I am convinced, from my study of the subject, is not true.

Moreover, it isn't possible to have the departments homogeneous unless you largely multiply the number of departments. The newest department—Commerce and Labor—constructed with the idea of homogeneousness, is as heterogeneous as any department in the Government.

However, this is not a question of the transfer of the Revenue-Cutter Service from the Treasury Department to some other department, but the question of its abolition. There is, nevertheless, in the suggestion, no doubt, the influence of this idea of changing activities from one department to another in the hopeless quest of absolute homogeneousness. And it is therefore worth while to call attention to the fact that the astonishing success of the Revenue-Cutter Service and the maintenance and development of its valuable military character have all taken place in the Treasury Department. And it is scarcely possible to imagine that the service could have been better under other relationships than it has been, or that, if differently placed, it could be better now than it is. Then, one may ask, Why bother or take up time over a service as highly developed as this, and which in this present administration is continuing to devotedly improve itself, and which is perfectly happy in its relationships and environment?

3. The question of economy, which was the occasion of the recommendation, is not treated by the commission with any detail or even with any exact calculations. Only general expectations of savings are expressed. In point of fact, there would be no hope of any economy. The captain commandant claims, on the basis of careful study and calculation, that it would cost about 50 per cent more to do the work through other departments. And I think his calculations are correct. Certainly the abstract argument—apart from the recorded and official statistics—would distinctly be that the disintegration of the service and its division among various departments would necessarily add to the expense if all the work were performed. It would be a scattered administration instead of a concentrated one. And scattered administration is almost necessarily more expensive than concentrated and centrally organized administration.

In this case, particularly, nothing could be gained by transferring and dividing up the various activities now concentrated in this one organization. We can not, for example, say that the Navy Department is now overstocked with more vessels than it needs, and more officers and men than it needs. It can not be said that there is a great lot of slack in the Navy Department which could be taken up and applied to duties other than those which the department is now performing. I take it that the Navy Department would very properly resent the claim that it has a surplusage of men or vessels, with which it could undertake such additional active lines of duty as this of the Revenue-Cutter Service without increasing its expenditures. If the Navy Department said any such thing, it would be a confession that it is now pursuing a wasteful policy, and that it is oversupplied with vessels and with men and officers. But it is notorious that this is not true. It is notorious that the Navy needs more vessels, large and small alike, and more men and more officers. And it is clear that it is in no position to take over the duties of the Revenue-Cutter Service without as much new equipment as the Treasury Department has. And it is clear that it would cost the Navy Department a largely increased amount to administer the work in times of peace, and that the work would be liable to be suspended in time of war.

You will have noted that the whole cost of the Revenue-Cutter Service is only $2,500,000 a year; and aside from all of its other usefulness it actually saves in money from the disasters of the sea several times as much as it costs. And it saves on the average of 50 lives a year in addition. And I fancy there is no service of the Government that is conducted with more painstaking and successful economy.

4. Moreover, the work of the officers and men of the Navy has no relation to the work of the Revenue-Cutter Service. The Navy is fully occupied with its own development and training—with perfecting its personnel, its practice, and its equipment. No one is dissatisfied with how the Navy is occupying itself, and no one thinks it can work more advantageously than it is already working, and no one wishes to divert it at this time from its purely naval occupations.

In addition, the Navy could never give the kind and degree of attention that is required of the Revenue-Cutter Service and of its officers and men trained in their particular duties for 120 years. The work is alien to the work of the Navy, alien to the spirit of the Navy, and alien, I think, to its professional capacities and instincts—alien certainly to its training and to its tastes.

5. A word as to the relations of the Revenue-Cutter Service and the Life-Saving Service. The commission has had to approach this relationship from the outside. I have studied it considerably from the inside; and so did Assistant Secretary Hilles, and so has Assistant Secretary Bailey. And everybody who has studied it in the Treasury Department within my time is convinced that the Revenue-Cutter Service should have more connection with the Life-Saving Service, rather than less; and that it furnishes exactly that training, with its military precision and its military esprit, that this remarkable Life-Saving Service needs. And it is the relation existing from the beginning between the Life-Saving Service and the Revenue-Cutter Service that has done very much to make the Life-Saving Service the conspicuous, successful, and heroic thing that it is. To disassociate the Life-Saving Service and the Revenue-Cutter Service would be disastrous. We have been working to secure a closer relationship between the two services; and that is the line of progress; that is the line of development. I say this without any hesitation or doubt whatever. It would be the greatest mistake in the world to add any further separation between these two great services. Indeed, I think it might be very well a little later to make the Life-Saving Service a part of the Revenue-Cutter Service, and I believe that will be done.

6. The notion that the military character of the Revenue-Cutter Service is inappropriate to a civil department is, of course, a misconception. In the first place, all governments have civil heads; and

the mere existence of a military training or system in any branch of the public service does not render it necessary to have a general or an admiral at the head of the government. In point of fact, there are no generals or admirals at the head of our Government. The President is a civilian. The governors of States are civilians. Yet the President and the governors all have military forces under them. The mayors of cities introduce into their police and fire departments every bit of military discipline and esprit they can get in. But more noticeable still is the fact that the Secretary of War and the Secretary of the Navy are just as much civilians as the Secretary of the Treasury.

Moreover, the Treasury Department has other branches with military quality. The Life-Saving Service itself has all of the military character we have been able to get into it so far; and the Public Health and Marine-Hospital Service is on a military footing. And it is the fact that these three important services, with their military basis and instinct, have not only always been associated with the peaceful Treasury Department, but are among the most conspicuously successful and admired branches of the Federal Government—and among those branches which the public most approves and trusts.

There is no end to what I could say on this subject. But I am sure I have already said more than is necessary.

Very sincerely, yours,

FRANKLIN MACVEAGH.

The PRESIDENT.

ADDRESS DELIVERED BY THE HON. FRANKLIN MACVEAGH, SECRETARY OF THE TREASURY, AT NEWPORT NEWS, VA., FEBRUARY 10, 1912, ON THE OCCASION OF THE LAUNCHING OF THE REVENUE-CUTTERS "UNALGA" AND "MIAMI."

WHY IS THERE A REVENUE-CUTTER SERVICE, WHAT DOES IT DO, AND WHY IS THE GOVERNMENT TO-DAY LAUNCHING THESE TWO NEW ABLE VESSELS TO ADD TO ITS FLEET?

These are questions which naturally arise on this very interesting occasion; and to answer them we need only to refer to the distinguished history of the service and its remarkable performances.

Looking backward we see that this service—"The strong right arm of the Treasury," as it has been termed—owes its existence to that far-seeing statesman, Alexander Hamilton, the first Secretary of the Treasury, upon whose recommendation the First Congress, in its second session, enacted the law which created the Revenue-Cutter Service, in the year 1790. This parentage alone places it among the honored and the time-honored institutions of the Government.

It is thus seen to be one of the oldest distinct branches of the Government. It was founded to perform dual functions—functions of peace and functions of war—for it must be remembered that there was no regular naval establishment when the Revenue-Cutter Service was founded. And ever since and to this present day this service has continued along these dual lines of duty. Its first duties of a peaceful nature were primarily to prevent smuggling and to enforce the customs laws; since then like duties have been successively added until to-day the activities of this Revenue-Cutter Service relate to almost all maritime matters over which the General Government exercises jurisdiction.

The fundamental function of all the armed branches of the Government in time of war is to fight the Nation's battles either on sea or on land. In this rôle the Revenue-Cutter Service has taken an active and conspicuous part. There has been no war on the seas in which these small vessels have not participated. It must be borne in mind that such wars are not confined to combats between fleets of battleships. True, such combats furnish the chief and the spectacular parts of the conflict. But it is quite essential that the enemy's ports shall be blockaded, his merchant marine captured and destroyed, that troopships shall be convoyed, and that towns remote from scenes of battle shall be guarded from marauding privateers. In these functions the "little fellow" plays quite as active a part as his more imposing and formidable brethren. In the War of 1812, in the Paraguayan expedition, in the Civil War, and in the Spanish-American War the cutters have been engaged and have rendered good accounts of themselves. Looking backward to our most recent conflict, most of us will remember that it was a revenue cutter, the *McCulloch*, which carried the first news of Dewey's victory to a waiting and anxious world; and many of us will recall the interesting fact that the blockade of the entire north coast of Cuba was for about a month maintained entirely by the fleet of revenue cutters, as the larger ships of the Navy had to be withdrawn to prepare for the attack of the Spanish fleet. Nor is it likely to be soon forgotten that the rescue of the torpedo boat *Winslow*, lying disabled and helpless under the murderous fire of the forts at Cardenas, was made by the little revenue cutter *Hudson*, a vessel less than one-third as large as those vessels we have launched here to-day. For this brave act I am happy to say her commanding officer was awarded the only gold medal given by Congress to anyone taking part in that war.

But peace hath her victories no less renowned than war. And while the Revenue-Cutter Service performs as much fighting service in proportion to the amount invested as any other equal number of men in either the Army or Navy it is the peaceful victories and achievements of the service which appeal strongest to the people. The honor and distinction of these extraordinary services the revenue cutters share with no other force. Her honorable place in peace she holds alone.

Many of the duties which this service performs in times of peace have to do with the devoted and gallant rescue, in stress and storm, of helpless vessels in distress. Other duties are connected with the enforcement of the laws applicable to the merchant marine and protection both of its rights and obligations. It is easy to understand that the military training which its personnel receives fits them splendidly for the emergent—the immediate—character of these more peaceful duties; and one of the greatest attributes of the service is the promptness and alacrity with which it responds to all calls for assistance from whatever quarter or at whatever moment they come. The wireless message is scarcely more prompt than the revenue cutter's response. To illustrate the celerity with which the revenue cutters have in the recent past responded to the calls of the distressed at sea, let me note a few conspicuous and dramatic instances.

In 1882 the Navy sent the *Rogers* as a relief ship to search for the ill-fated *Jeanette*, lost in the Arctic waters. The fate of the *Jeanette* befell the *Rogers*, and as the Navy had no other vessel to send to her relief an appeal was made to the Treasury Department for the revenue cutter *Corwin*. That vessel was undergoing repairs, but was made ready in a brief three weeks for this daring and successful trip—successful, I say—for inside of two months the *Corwin* had rescued the entire party from the ice fields of the Arctic Ocean and brought them safely to San Francisco.

Again, there was that wonderfully prompt, effective, and fortunate rescue of the crews of the Arctic whaleships in 1897.

In the fall of 1897 word was received that eight whaleships had been wrecked in the Arctic Ocean off Point Barrow, and that their crews of 265 men were in imminent danger of starvation. Immediate action was necessary, for at the best it did not seem as if relief could reach them until the following spring. President McKinley, in the great kindness of his heart, was sorely tried as how best to furnish succor to the shipwrecked men. He called in heads of departments for consultation; and the President's sore problem was solved when the Secretary of the Treasury promised him that a revenue cutter would be dispatched to the Arctic within 10 days, and that not even an additional appropriation would be necessary. All know now with what success the Revenue-Cutter Service performed that hazardous duty; and if anyone here does not know, I covet the pleasure of telling him that our Capt. Commandant Bertholf was one of the three chosen from those who quickly volunteered their services and was, therefore, one of the three Revenue-Cutter men who added their names to the most select list of the heroes of our country.

Then, on January 23, 1909, the sinking steamer *Republic* sent out the now famous "C. Q. D." signal of distress; the wireless operator on the cutter *Gresham*, then at anchor in Provincetown Harbor, heard it, and within eight minutes' time she was under way in a dense fog, driving at full speed to the rescue of the distressed *Republic*. She was the first vessel to arrive on the scene of the disaster, although being compelled to steam through the fog for a distance of over 150 miles. All will remember that it was this vessel which had the distinction of picking up the valiant commander of the *Republic* from the water just after his vessel had gone beneath the waves. The commander of the *Gresham*, who didn't wait an avoidable minute to be on his way to that celebrated relief, was Capt. Perry. And no gathering of Revenue-Cutter officers ever leaves a speaker without the men before him to illustrate his instances of American high devotion, of American high courage.

Only within the past month word came that there were 30 American fishing vessels imprisoned in the ice on the bleak Newfoundland coast, 850 miles from the nearest revenue cutter. Orders were immediately issued to the *Androscoggin* to undertake the difficult task of getting to the latitude of Labrador in midwinter, and the captain's telegraphic acknowledgment came the same afternoon, announcing that his vessel would sail at once. This trip was successfully performed and adds another remarkable page to the singularly fortunate and manful achievements of this ancient and honorable service.

But what is the sum of its usual and customary activities?

It saves an average of 50 human lives each year. Who shall appraise the value of that work alone?

It saves marine property from the perils of the sea amounting to from $6,000,000 to $10,000,000 every year, whereas the total cost of this service to the Government is less than $2,500,000.

It enforces the navigation laws, immigration laws, neutrality laws, and when necessary suppresses mutiny and lawlessness on merchant ships.

Each year it destroys or recovers an average of more than 20 derelicts, which otherwise would drift about in the paths of our coastwise traffic, a constant menace to shipping.

Does one ever hear these days of smuggling in bulk, save in a few remote places? Were it not for the revenue cutters constantly patrolling our coasts it is not unreasonable to suppose that large amounts of goods would enter in the easiest way. And that, I am bound to admit, is not through the customhouse.

It has turned intercollegiate regattas, international yacht races, and similar great aquatic events from disorderly marine rabbles into quiet and orderly proceedings, where everyone may witness the events and be reasonably sure that life will not be endangered in the mad scramble for the points of vantage.

It has fostered the Life-Saving Service, and has assisted most efficiently the able men of that highly honored service in making it what it unquestionably is—the model life-saving service of the world.

To-day, and since its purchase, it is and has been the marine guardian of the rich territory of Alaska. It has protected the seal rookeries from devastation and has carried food and medicine to thousands of starving natives and shipwrecked whalers and fishermen. It carries the law to the remote places of that remote and immense land, and is the only arm of the Government that ever reaches three-fourths of the enormous coast line of that important territory.

It has enforced the marine quarantine regulations in every epidemic that has broken out in the coastwise cities. In the yellow-fever outbreak in 1905 along the shores of the Gulf, the Revenue-Cutter Service had five vessels constantly on patrol, and completely prevented the spread of the scourge, so far as water communication was concerned. So that the work of this distinguished—this "ancient and honorable"—service is as multifarious as it is efficient. It is wonderful it can do so many and such important things; but it has the traditions that make men strong and fine. Alexander Hamilton did well when he, the greatest of our practical statesmen, established—and established for all time—this wonderful valuable arm of the Government.

The various activities of the Government follow natural lines of demarkation rather than the artificial lines drawn by the several departments. Therefore, when there is an insufficient amount of maritime work in any particular department to warrant the maintenance of a well-equipped maritime service of its own, it has this work done by the Revenue-Cutter Service. And thus this service is called upon to perform duties for nearly all the great departments of the Government, and in its entirety this organization represents a concentration of governmental maritime functions. So that though it has always remained a part of the great Treasury Department, as Hamilton ordered, it really belongs to all the departments, and in its work, both in war and in peace, is as broad as the Government itself. It has an individuality—a personality it may almost be said—born of the traditions of over a century's remarkable and intense experience. The officers and men of this service are proud of it; proud of its history; proud of its over 120 years of achievement; and they have a right to be. The Treasury Department is proud of this service, and it has a right to be. The whole Government is proud of it, and has a right to be. And the people are proud of it—the people know well that they have a right to be proud of it. For in the course of the years it has come to be one of the most beneficent governmental agencies in the world. With the changing times this service, while always enlarging its useful duties to the Government in peace and war, has also become a protector of the helpless of the seas. This ever-alert fleet is the ever-vigilant friend and defender of those for whom there is no other help; and no more fearless vessels and no more gallant men ever patrolled the oceans in any part of the world. They are an honor to their country. They carry their lives in their hands; and when they are at rest in a harbor they stand at attention—listening for the cries for help.

My friends, wherever a man sees a revenue cutter he ought to take off his hat to it.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
DIVISION OF REVENUE-CUTTER SERVICE,
Washington, February 17, 1912.

SIR: I have the honor to present the following comments upon the report on the Revenue-Cutter Service submitted to the President by the Commission on Economy and Efficiency under date of November 17, 1911, and handed to me January 16, 1912.

As the recommendation to abolish the Revenue-Cutter Service and distribute its duties among other branches of the Government is made, as stated, simply "for the purpose of laying this important matter before the President" and "raising an important issue in definite form," and will doubtless be modified as the result of a proper discussion and consideration of the subject, it would seem quite necessary to examine somewhat thoroughly into the organization, equipment, functions, and cost of the service, and the matter naturally presents itself under the following general heads:

1. The functions and duties of the Revenue-Cutter Service.
2. Are they performed economically and efficiently by its present organization?
3. Can they be performed by the existing equipment of other departments?
4. If not, will there be a saving in expense or increase in efficiency, or both, if the duties and equipment of the Revenue-Cutter Service were distributed among the several departments?

1. FUNCTIONS AND DUTIES.

The Revenue-Cutter Service was originally established in 1790, at the second session of the First Congress, upon the recommendation of the first Secretary of the Treasury, as the result of the need for the services of a coast patrol for the enforcement of the customs laws and an organized armed force for the protection of the seacoast—there being at that time no Naval Establishment. By evolutionary processes coincident with the steady growth of the Nation, duties have been successively added to this service to meet the ever increasing demands of the maritime interests in so far as they are connected with governmental functions. All governmental activities have increased by the same processes so that to-day there are nine great departments of the Government, whereas at the beginning there were but three. This increase in the number of the departmental divisions of the public service was made more on account of the greater volume of the work to be performed than from what might be termed the natural divisions of governmental work, such, for example, as the natural division of the work on the land and the work on the sea. Therefore it followed that additional duties on the seas were quite appropriately assigned to and performed by the Revenue-Cutter Service, as the necessity for them arose, regardless of the artificial governmental division or department under which this need was made apparent. And there being an insufficient amount of such maritime work in each of the several departments to warrant the maintenance of a separate service by each, it was most natural from an economical and business standpoint to have them all performed by an established organization. This fact in itself constitutes a legitimate and logical field of activity, and here we have that centralization, specialization and coordination which experience has amply proved to be the very elements of economy and efficiency. And these things have produced the Revenue-Cutter Service at it exists to-day, a compact and efficient organization—an emergency service—specializing in the performance of governmental maritime duties. In addition to its functions under the Treasury Department, quite logically the service is called upon by, and accomplishes work of this character for a number of the other departments, notably the Department of Commerce and Labor, the Department of the Interior, the Department of Justice, and—in a limited degree due to limited needs—for the Department of Agriculture.

Its emergent and principal duties in time of peace, those of saving life and assisting distressed vessels at sea, are what might be classed as general governmental functions, belonging as much to the Treasury Department as any other; in fact such duties belong to the Revenue-Cutter Service whether the law specifically states so or not, as in the process of governmental evolution they quite naturally fell to this organization as the need for them developed, and have always been performed by it. The destruction of derelicts comes under this general class, only in this particular duty Congress directed specifically that it should be performed by the Revenue-Cutter Service, because another department had previously been charged with that duty and failed to perform it in a manner satisfactory to the maritime and commercial interests of the country.

A number of other duties assigned to this service, such as the enforcement of navigation laws, the patrolling or policing of regattas, the enforcement of anchorage laws, the enforcement of quarantine laws, and the patrol of the Bering Sea for the protection of the fur-seal industry, might be classified as intermittent duties, and, from an economical standpoint, fit in most efficiently with the principal duties above enumerated.

For example, the greater part of the work of saving life and property on the sea occurs in the stormy winter months. During periods of good weather in the winter the cutters board and examine vessels and otherwise enforce navigation laws. In the summer months occur the great regattas and marine parades which have to be regulated and patrolled; the Bering Sea policing—due to the habits of the seals—is only necessary during the months from May to October. The annual cruise of one vessel along the coast of Alaska, in the interests of the Department of Justice, is practicable only in the summer months, and the same is true of the cruise made by another vessel to the far North, serving the interests of several departments—the Treasury, Commerce and Labor, Interior, and Justice. Nine-tenths of the 110,000 and over motor boats which must be kept under Government surveillance are used only during the summer months. The service of a first-class cutter to police the distant islands beyond the Hawaiian Group—at the request of the Department of Agriculture—for the purpose of protecting the bird reserves and preventing encroachment by Japanese poachers is also what may be termed an intermittent duty that fits in well with the other duties of that vessel, and on these cruises the customs laws and navigation laws are enforced as occasions serve, and calls for assistance from vessels and people in distress are always responded to, no matter what other duty the vessel is specially charged with.

On pages 17 and 18 of the report (manuscript) the commission seems inclined to believe there is little if any real need for an armed patrol for the prevention of smuggling. It is true this form of lawlessness—smuggling in bulk—is not common, but this fact is direct evidence of the high state of efficiency in which the Revenue-Cutter Service has been and is being maintained, and is the result of the accumulated deterrent effect of years of vigilant patrol. Lawlessness in any guise and in any locality is kept in check only by physical force or the presence of such force, and it is clear that without an armed coast patrol smuggling would soon spring into existence along our many miles of seacoast.

During all periods of the year and at such times as least to interfere with the emergent duties of a civil nature, a rigid system of military discipline and training is maintained to fit the personnel for cooperation with the Navy in time of war, as the law requires. This function of the services has always been of value, since in all wars to which the United States has been a party the Government has had at hand a naval auxiliary force properly disciplined and trained ready to become a part of the regular naval forces simply by the issuance of an Executive order. And it is by means of such drills, training, and discipline that the service is enabled to maintain its ships and personnel in that state of preparedness necessary for the prompt performance of its most important civil duties, which, as has been stated, are largely of an emergent character. With the foregoing general outline of the activities and functions of the Revenue-Cutter Service, the second heading will be taken up.

2. ARE THEY PERFORMED ECONOMICALLY AND EFFICIENTLY BY ITS PRESENT ORGANIZATION?

This point was not raised by the commission, it having stated that lack of time prevented an intensive examination, but for their purposes they assumed that it was. Economy and efficiency mean, generally, a maximum of results for the minimum of expenditures. All investments are judged by the dividends paid, so the investment which the Government makes annually in the maintenance of the Revenue-Cutter Service should be appraised in connection with its output. From the great variety of the beneficial acts rendered by this service to the public interests it is naturally quite difficult to make appraisals in statistical form. But, as before stated, the most important of these numerous outputs is the value of the marine property succored. Even in this it is not possible to make a direct comparison, as no similar organization exists under governmental, or forsooth, under private organization. As a test, however, of efficiency and economy, comparison can be made as to the relative cost of the maintenance of the service in proportion to the value of marine property saved during certain periods, as for instance, the last four fiscal years 1908 to 1911, inclusive, with the corresponding period, a decade ago, of the four years 1898 to 1901. From this comparison the official statistics show that from 1898 to 1901, an investment of $1 in the Revenue-Cutter Service was instrumental in saving $2.39 of marine property, and that for the past four fiscal years, 1908 to 1911, an investment of $1 saved $4.43 of the floating property belonging to the public. This clearly indicates that the Revenue-Cutter Service, as at present organized and administered, is progressively economical and efficient. If further evidence were needed, recourse to the files of the department will show hundreds of commendatory letters from shipowners and masters, maritime organizations, etc., wherein frequent references are made to the invaluable aid to commerce given by this service. The attitude of the public press should also be taken into account in appraising the efficiency of a public service of any character, as it is through that medium largely that an expression of the appreciation or nonappreciation, as the case may be, of what is after all the controlling element, the public, can be determined. It is believed that no other branch of the public service receives more commendation and less criticism than the Revenue-Cutter Service.

Comparative data—Cost v. Output.

Year.	Cost of maintenance.	Value of property assisted.
1898	$1, 066, 478	$1, 640, 280
1899	1, 040, 594	1, 735, 762
1900	1, 229, 337	4, 923, 095
1901	1, 256, 550	2, 697, 825
	4, 592, 959	10, 996, 962
$10,996,962 divided by $4,592,959=$2.39.		
1908	1, 817, 227	6, 858, 918
1909	2, 423, 564	13, 940, 079
1910	2, 496, 838	10, 401, 935
1911	2, 455, 041	9, 488, 562
	9, 192, 670	40, 689, 494
$40,689,494 divided by $9.192,670=$4.43.		

By its civil duties, the operations of the Revenue-Cutter Service save many times its cost annually, as shown by the foregoing. Through its military organization and training the service constitutes a valuable naval auxiliary force, as history demonstrates. It will thus be seen that the service occupies a peculiarly advantageous status from an economical point of view as compared with other branches of the Federal service, and has therefore a large balance to its credit from each of its dual functions.

3. CAN THEY BE PERFORMED BY THE EXISTING EQUIPMENT OF OTHER DEPARTMENTS?

In answering this query we must assume:

(*a*) That the saving of life, assistance of distressed vessels, destruction of derelicts, maintenance of a coast patrol for the prevention of smuggling, and the patrol of the Bering Sea, would be performed by the Navy.

(*b*) That the boarding of vessels in connection with the customs laws and the prevention of smuggling in ports would be performed by the Treasury Department.

(*c*) That the enforcement of navigation laws, patrolling of regattas, maintenance of anchorage patrol, etc., would be performed by the Department of Commerce and Labor.

(*d*) That the Department of Justice would maintain its own vessel for court and other duties in Alaska.

(*e*) That the Department of the Interior would maintain a vessel for its work in connection with the Bureau of Education in Alaska.

(*f*) That the Department of Agriculture would maintain a vessel to protect the bird life on the Laysan and Lisiansky Islands, and for the enforcement of game laws in Alaska.

Considering these assumptions in the above order, we find in looking at the facts in each case the following conditions existing:

(*a*) The Navy Department is not prepared to assume any additional work other than that which it is now performing, owing to a lack of ships of the size necessary for the efficient and economical performance of the work which it is assumed that it would be called upon to perform in the event of the abolition of the Revenue-Cutter Service. Further, it has not sufficient officers and men to man such vessels, even if they had the vessels. In support of this assertion, reference is made to the report of the Secretary of the Navy for the fiscal year 1911, pages 36, 40, 47, and 50, wherein is discussed lack of ships of this class and lack of personnel. In addition, it will be recalled that upon the recommendation of the Secretary of the Treasury, with the approval of the Secretary of the Navy, Congress, in the sundry civil bill approved May 27, 1908, authorized the transfer of the gunboat *Vicksburg* to the Revenue-Cutter Service. Repeated applications for the transfer of this vessel since then have been made to the Navy Department, and on each occasion it has been denied on the grounds that the Navy Department could not spare her, owing to the lack of vessels of her type and class, and finally, on March 30, 1909, the Navy Department stated that it could not foresee the time when this vessel could be spared.

(*b*) The Treasury Department has no vessels with which to board incoming merchant and passenger vessels other than the small revenue cutters which are now performing this work. There are also no vessels available for the patrol necessary to prevent smuggling in ports other than the existing cutters. Consequently, the smaller vessels of the Revenue-Cutter Service would have to be retained by the Treasury Department for these duties.

(*c*) The Department of Commerce and Labor now maintains four distinct and separate fleets for the performance of special duties, as follows: Vessels for the Lighthouse Service; vessels for the Coast Survey; vessels for the Fish Commission; vessels for the Immigration Service.

It is very evident that these vessels have sufficient work in these special duties to occupy their entire time, or otherwise the Revenue-Cutter Service would not be called upon to perform various duties for this department. Further evidence that the department is not equipped for the performance of these duties comes from the fact that it now asks and receives from Congress a special appropriation each year of $15,000 to hire or purchase motor boats to assist in enforcing navigation laws, etc., principally in shoal waters inaccessible to revenue cutters.

In order to accomplish all the duties which the Revenue-Cutter Service now performs for the Department of Commerce and Labor it would be necessary for that department to build up another special service, in addition to the four it now possesses.

(*d*) The Department of Justice has no vessels of its own, and in the event of the abolition of the Revenue-Cutter Service (the Navy or no other department having available vessels to detail for such duty) it would be neccessary for that department to maintain a vessel of its own to perform practically three months' duty each summer in Alaskan waters.

(*e*) The previous statement applies with equal force to the conditions in the Department of the Interior.

(*f*) The same applies to the Department of Agriculture.

Having shown that the duties of the Revenue-Cutter Service can not be performed by the existing equipment of other departments, it is pertinent to inquire:

4. Will There Be a Saving in Expense or an Increase in Efficiency, or both, if the Duties and Equipment of the Revenue-Cutter Service Were Distributed Among the Several Departments?

Considering this question in the same order as outlined under the third heading, we find:

(*a*) If the Navy should assume the tasks of assisting vessels in distress, patrolling Bering Sea, destroying derelicts, etc., it would have to use vessels of the gunboat class—craft in size and general characteristics similar to the revenue cutters of the first class—and having none to spare, would require the large revenue cutters transferred for the purpose. A comparison of the relative costs of maintenance and operation (including repairs) of groups of vessels of the Navy and Revenue-Cutter Service of approximately the same size and characteristics, covering a period of the last three fiscal years, shows that the average naval vessel of this class costs $134,445.99 per annum and the average revenue cutter $84,552.13. In order to secure greater accuracy in this comparison of cost the same has been reduced to a unit, and it is found that the "cost of maintenance and operation per ton of displacement per annum" is $127.84 in the Navy and $83.47 in the Revenue-Cutter Service.[1] This shows that the cost of maintenance and operation is 53.2 per cent greater in the Navy than in the Revenue-Cutter Service for vessels of similar size and type.

(*b*) The boarding of vessels in connection with the customs laws and the prevention of smuggling in port could be performed by the Treasury Department with that portion of the equipment of the Revenue-Cutter Service now used for such duties. These small vessels are operated as economically as possible consistent with the requirements of the duties performed. Under the proposition that each department should do its own work, these Treasury craft could perform no service in connection with the enforcement of navigation laws, patrol of regattas, etc., which they now do, hence they would not be operated as efficiently as at present.

(*c*) As previously stated, the Department of Commerce and Labor has no vessels with which to enforce navigation laws, patrol regatta courses, enforce anchorage laws, etc. There would be none of the existing revenue-cutter fleet available for this department, as all would be either transferred to the Navy or retained by the Treasury. Therefore it would be necessary to establish and build up another special fleet to perform these particular duties. These vessels with their personnel would be in addition to the existing equipment of the Revenue-Cutter Service, and in consequence there would necessarily be a decided increase in cost, as compared with the present conditions.

(*d*), (*e*), and (*f*) The same applies with equal force to the Departments of Justice, Interior, and Agriculture.

There would be no economy in the proposed distribution of duties and equipment. On the contrary there would be, if the work were done as well, a decided increase in cost, as the following will demonstrate.

The average annual cost of a revenue cutter of the first class is $84,000, in round numbers. It costs 50 per cent more (in round numbers) to operate such a vessel in the Navy. Therefore if the 20 first-class revenue cutters were transferred to the Navy Department, as proposed by the commission, and operated by that department, there would be an annual increase in cost of $840,000.

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[1] In making this comparison of costs there is no intention to criticize the Navy Department. It is believed that the greater part of the increased cost is due to the larger crews of the naval vessels. Gunboats are maintained more or less on a war footing, and the average complement of the naval vessels upon which the comparison was made consists of 8 commissioned officers and 148 men; whereas the average complement of first-class revenue cutters is 7 commissioned officers and 63 men. There is good reason for this difference in complement. For naval vessels the size of the crews depends largely upon the number of guns to be manned; revenue cutters having smaller batteries obviously do not require so many men, and therefore the size of their crews is based upon a sufficient number to handle the vessel and man the boats for rescue work.

There is a greater number of men in proportion to officers in the Navy than in the Revenue-Cutter Service, and this must necessarily be so, since a naval vessel is maintained more or less on a war footing, whereas a revenue cutter presents a skeleton military organization, which, while capable of being immediately expanded to full war strength when necessary, requires only a small crew for the ordinary duties of peace. When war breaks out and the revenue cutters cooperate with the Navy and are used solely for military duties the crews are immediately increased, but the number of officers remains the same, with possibly an addition of one officer for each first-class vessel. There must always be a certain number of officers for a seagoing vessel—no matter what her size, there must be a captain, officers to stand the watches on deck and officers to stand the watches in the engine room, and this quota of officers is as necessary for a 1,000-ton ship as for a 3,000-ton vessel, so that the number of officers does not depend upon the number of the crew nor upon the size of the vessel, but rather upon the duties to be performed which are common to all ships. Men who stand responsible watches in charge of the deck or machinery should not be required to be on active duty more than 8 hours in each 24—that is, two watches of 4 hours each. The captain upon whom the responsibility of the entire ship devolves is supposed to be on duty at all times, as he is liable to be called at any moment; hence he stands no watch. It will thus be seen that the complement of 7 officers carried on revenue cutters (1 captain, 3 officers for deck duty, and 3 officers for engineering duty) represents the actual necessities on all seagoing ships of this class, whether in peace or in war. An extra officer could be employed very advantageously on first-class cutters, if we had them, as military discipline and drills are kept up at sea as well as in port, but this duty is now performed in addition to the regular watch duty.

For the second and third class cutters and launches which would have to be retained by the Treasury Department in the proposed distribution of the fleet, there would be neither increase nor decrease in cost if this fleet were administered as economically as at present.

For the Department of Commerce and Labor to perform all of the duties of enforcing navigation laws, patrolling regattas, enforcing anchorage laws, etc., it has been shown that, having no vessels of its own for such purposes and there being no revenue cutters remaining to be transferred to it, a new fleet would have to be created for these exclusive duties. Estimating very conservatively, that department would need not less than 15 small vessels for this work. The average annual cost of maintenance of each vessel could not possibly be less than $15,000 per annum, and this would mean an additional annual cost of at least $225,000, without considering the cost of purchasing or building such vessels.

Under the most conservative estimate, it would cost the Interior Department, Department of Justice, and the Department of Agriculture not less than $20,000 per annum each to maintain vessels for the performance of the duties now accomplished for these departments by the Revenue-Cutter Service in addition to its other duties. This would mean an increase in annual expenditures on the part of the Government of $60,000, exclusive of the purchase price of such vessels.

Recapitulation of estimated increase in annual cost if the recommendations of the Commission on Economy and Efficiency are carried into effect.

On account of vessels transferred to the Navy Department	$840,000.00
On account of vessels required by the Department of Commerce and Labor	225,000.00
On account of vessels required by the Departments of Justice, Interior, and Agriculture	60,000.00
Total increase	1,125,000.00

And this does not include any administrative expense nor the cost of building or purchasing the additional vessels that would be required.

RÉSUMÉ.

The various duties that have been assigned to the Revenue-Cutter Service must be performed—the public interests demand them and the law requires them. The issue raised by the commission therefore resolves itself into the following:

Can these duties best be accomplished by one organization like the Revenue-Cutter Service or by several organizations—each in a separate department?

It has been shown that as the country grew and developed, the maritime functions and obligations of the Government increased, and as different departments had cognizance of the various duties growing out of these obligations, there was an insufficient amount of such maritime work in each of the several departments to warrant the maintenance of a separate service by each. Quite logically, therefore, these duties were successively added to the Revenue-Cutter Service, until to-day its functions relate to maritime matters in almost all of the departments of the Government. A close analysis of these duties will disclose the fact that while none of them individually requires constant attention, all of them are of such a coordinate nature as to permit them to be accomplished satisfactorily by one organization.

As has been pointed out, this fact constitutes a legitimate and logical field of activity, and permits centralization, specialization, and coordination—the elementary principles of economy and efficiency. Under these conditions and upon these principles the Revenue-Cutter Service has developed—it has profited by its 122 years of experience—until to-day it exists as a compact organization representing a concentration of governmental maritime functions, administered economically and efficiently.

To disband this organization and distribute its duties and equipment among the several departments, as proposed by the Commission on Economy and Efficiency, would inevitably result in the establishment of several services, each under a separate organization and administration, with all the confusion and expenses incident to the formation of any organization as it passes through the transitory stage necessary for the perfection of the system. Each of these services would require as many vessels as the Revenue-Cutter Service now periodically uses for that particular class of duty, if the same results are to be obtained. As none of these services could use the vessels or do the work of another service (otherwise the object sought in the proposed distribution would be lost), this would necessitate a far greater number of vessels in the several services than is now needed by the Revenue-Cutter Service for the accomplishment of all these duties. All this would result in confusion and lack of coordination, which means inefficiency and duplication of equipment and administration, entailing under the most conservative estimate an additional annual expense of at least $1,125,000.

Respectfully,

E. P. Bertholf,
Captain Commandant.

The Secretary of the Treasury.

71st Congress, 2d Session | HOUSE OF REPRESENTATIVES | Document No. 252

PROPOSALS TO IMPROVE ENFORCEMENT OF CRIMINAL LAWS OF THE UNITED STATES

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

COMMENTS UPON PROPOSALS TO IMPROVE ENFORCEMENT OF THE CRIMINAL LAWS OF THE UNITED STATES

January 13, 1930.—Referred to the Committees on Ways and Means, Judiciary, Interstate and Foreign Commerce, Expenditures in the Executive Departments, District of Columbia, and Immigration and Naturalization, and ordered to be printed

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To the Congress of the United States:

In my previous messages I have requested the attention of the Congress to the urgent situation which has grown up in the matter of enforcement of Federal criminal laws.

After exhaustive examination of the subject, the Commission on Law Observance and Enforcement and the officials of the Department of Justice and of the Treasury Department unite in the conclusion that increasing enactment of Federal criminal laws over the past 20 years, as to which violation of the prohibition laws comprises rather more than one-half of the total arrests, has finally culminated in a burden upon the Federal courts of a character for which they are ill-designed, and in many cases entirely beyond their capacity. The result is to delay civil causes, and of even more importance, the defeat of both justice and law enforcement. Moreover, experience shows division of authority, responsibility, and lack of fundamental organization in Federal enforcement agencies and ofttimes results in ineffective action.

While some sections of the American people may disagree upon the merits of some of the questions involved, every responsible citizen supports the fundamental principle that the law of the land must be enforced.

The development of the facts shows the necessity for certain important and evident administrative reforms in the enforcement and judicial machinery, concrete proposals for which are available from Government departments. They are in the main:

1. Reorganization of the Federal court structure so as to give relief from congestion.
2. Concentration of responsibility in detection and prosecution of prohibition violations.
3. Consolidation of the various agencies engaged in prevention of smuggling of liquor, narcotics, other merchandise, and aliens over our frontiers.
4. Provision of adequate court and prosecuting officials.
5. Expansion of Federal prisons and reorganization of parole and other practices.
6. Specific legislation for the District of Columbia.

I append hereto a preliminary and a supplementary report from the Commission on Law Observance and Enforcement relating to several of these and other questions. I particularly call attention to their recommended plan for reducing congestion in the Federal courts by giving court commissioners enlarged powers in minor criminal cases. Their discussion of the workability and the constitutionality of the plan, which is concurred in by the eminent jurist upon the commission and others whose advice they have sought, is set out in more detail in the supplementary report. I also append memoranda from the Attorney General and the Secretary of the Treasury upon several phases of these problems.

I believe the administrative changes mentioned above will contribute to cure many abuses. Beyond these immediate questions are others which reach deeply into the whole question of the growth of crime and the enforcement of the laws. The causes of crime, the character of criminal laws, the benefits and liabilities that flow from them, the abuses which arise under them, the method by which enforcement and judicial personnel is secured, the judicial procedure, the respective responsibility of the Federal and State Governments to these problems, all require further most exhaustive consideration and investigation, which will require time and earnest research as to the facts and forces in action before sound opinions can be arrived at upon them.

HERBERT HOOVER.

THE WHITE HOUSE, *January 13, 1930.*

OFFICE OF THE ATTORNEY GENERAL,
Washington, D. C., January 13, 1930.

DEAR MR. PRESIDENT: With your permission I submit some comments upon proposals to improve enforcement of the criminal laws of the United States.

There are some obvious defects in our enforcement agencies, and there are measures that may be readily devised and taken tending to cure them. There are other defects obscure in their nature, requiring more prolonged study.

It has seemed to me, therefore, that any program for improvement naturally falls into two parts:

First. The prompt adoption of measures readily to be devised for curing obvious defects; and

Second. Extended inquiry to determine the more fundamental troubles and means of remedying them.

The Department of Justice and the Commission on Law Observance and Enforcement have been cooperating in the preparation of proposals which may be put into effect speedily to produce immediate improvement, having in mind that this preliminary program would be followed by more elaborate and thorough consideration of the subject. Only measures requiring new legislation need now be mentioned.

The task of enforcing the criminal laws is not confined to a single agency. Several must operate efficiently to produce good results. There must be—

First. Agencies to detect offenses and obtain evidence.

Second. Prosecuting attorneys who use the evidence thus prepared and try the cases in court.

Third. Courts to hear the cases.

At present obvious defects exist in each of these agencies.

Congestion in the courts deserves utmost consideration. In many districts the Federal courts are unable to cope with the volume of business brought before them. This results in delay, with weakening of evidence and difficulty in obtaining convictions. Another effect of congestion is the effort to clear dockets by wholesale acceptance of pleas of guilty, with light punishment. The deterrent effect of speedy trial and adequate punishment is lost. Congestion also means delay in trial of civil cases, with hardship to private litigants, particularly those of small means. This condition has been disclosed in the statistics for the year ending June 30, 1929, set forth in my annual report. That there has been no relief since June 30, 1929, is shown by telegraphic reports from United States attorneys (excepting those in the Territories) covering prohibition and narcotic cases commenced and terminated during the six months ended December 31, 1929. These reports show 28,437 prohibition and narcotic cases commenced; 25,887 such cases terminated; and 20,066 pending December 31, 1929—an increase over the number pending June 30 last and an increase as compared with those pending December 31, 1928.

REMEDIES

The most important and constructive suggestion comes from the Commission on Law Observance and Enforcement in the form of a proposal to use the United States commissioners for disposing of a large number of criminal cases, thus speeding up the work and relieving the Federal judges of burdensome details. There are some constitutional questions involved, but in my opinion these do not present insurmountable difficulties, and the validity of the proposal is supported by such eminent jurists and lawyers as George W. Wickersham, Henry W. Anderson, Newton D. Baker, Judge William I. Grubb, Judge William S. Kenyon, Monte M. Lemann, Frank J. Loesch, Judge Kenneth Mackintosh, Judge Paul J. McCormick, and

Roscoe Pound, who are members of the commission. If legislation along these lines can be made effective, a decided improvement will result.

Some additional relief for congested conditions will be afforded by providing additional judges in a few districts already recommended by the conference of senior circuit judges and by me.

Delay in judicial operations through inadequate forces in the clerks' and marshals' offices may be taken care of by additional appropriations, request for which is already pending before Congress.

AGENCIES FOR DETECTION OF OFFENSES

Since the passage of the national prohibition act, the attorneys who conduct the prosecutions in court have been under the Department of Justice, while the Federal agency for detecting offenses against the national prohibition act and preparing the evidence has been in the Prohibition Unit in the Treasury Department. There are no agencies in the Department of Justice authorized to perform the latter function. The closest cooperation must exist between officers charged with the detection of offenses and preparation of evidence on the one hand, and the United States attorneys and their assistants, who prosecute the cases, on the other hand. These agencies, now in different departments, would work together more efficiently if in the same department. A plan has been drafted by the Department of Justice and the Treasury Department to effect such a transfer. It leaves in the Treasury Department the administrative function of issuing permits for the manufacture and distribution of industrial alcohol and related matters. These proposals contemplate a revision of the regulations respecting permits so as to provide more complete supervision to prevent diversion from authorized uses, such regulations to be prepared jointly by the Secretary of the Treasury and the Attorney General so that the legal experience of the Department of Justice in prosecutions under the national prohibition act may be utilized in the drafting of the regulations. This plan also contemplates that in any case in which the Department of Justice has information bearing on the merits of an application for a permit, a representative of the department shall participate in the decision as to whether the permit shall issue.

PROSECUTING ATTORNEYS

However efficient the detection agencies may be, and however well equipped to handle the business the courts may be, in order to produce good results the prosecuting force, that is, the United States attorneys and their assistants, must be efficient. Some additional force and some increases in the rates of pay should be provided for these officials to enable us to procure and retain the services of competent lawyers. I have mentioned this before. Requests for additional funds for this purpose have been made and await congressional action. If the amounts we have asked for prove to be insufficient, requests for additional amounts may be made.

Attention should again be called to the necessity for reorganizing and coordinating the forces charged with patrolling the borders to prevent smuggling.

An important recommendation for amendment to the national prohibition act is that relating to so-called padlock injunctions. It is intended to remedy jurisdictional difficulties which arise under the existing law.

There has already been prepared and submitted to Congress a complete plan for reorganization of our prison system, including probation and paroles, which directly relate to enforcement of criminal laws. I have also submitted to the chairman of the Senate Committee on the District of Columbia specific recommendations relating to the District, so no further mention of these matters is required.

To summarize I recommend—

First. Immediate consideration of legislation to relieve congestion in the United States courts by—

Enlarging the powers and duties of the United States Commissioners.

By providing some additional judges.

By appropriation of funds for enlarging and improving personnel in the clerks' and marshals' offices.

Second. Immediate consideration of legislation to transfer to the Department of Justice the agencies for the detection of offenses under the national prohibition act.

Third. Appropriation of funds to increase the rates of pay and to provide additional forces in the offices of the United States attorneys.

Fourth. Amendment to padlock injunction provisions of the national prohibition act.

In respect to prohibition, attention has recently been directed more to Federal than to State agencies for enforcement. Placing all Federal agencies in good order is not the only requirement. It has never been contemplated that the whole task of enforcing prohibition should be borne by the Federal Government. Any constructive plan for better prohibition enforcement must give attention to improvement in State as well as Federal agencies, and to the adjustment between them of the burden of enforcement.

Respectfully,

William D. Mitchell,
Attorney General.

The President,
The White House.

PRELIMINARY REPORT ON OBSERVANCE AND ENFORCEMENT OF PROHIBITION

To the President.

Mr. President: Ever since the organization of this commission on May 28, 1929, it has been giving careful consideration, among other things, to the question of the observance and enforcement of the eighteenth amendment and the national prohibition act. The problems presented have been numerous and difficult. It was urged upon us from certain sources that we proceed at once to hold public hearings on this subject, but we conceived it to be more useful to make a careful study of the whole question, securing information from the responsible officers of government and from printed reports, as well as from hearings before committees of Congress, before embarking upon public hearings. While we are not ready to make a final report on the subject, we have reached certain conclusions which we are transmitting to you with this communication. The extent and complexity of the problem perhaps may be strikingly presented by reference to a few outstanding facts.

I. Scope and Size of the Problem

As to observance: It is impossible wholly to set off observance of the prohibition act from the large question of the views and habits of the American people with respect to private judgment as to statutes and regulations affecting their conduct. To reach conclusions of any value, we must go into deep questions of public opinion and the criminal law. We must look into the several factors in the attitude of the people, both generally and in particular localities, toward laws in general and toward specific regulations. We must note the attitude of the pioneer toward such things. We must bear in mind the Puritan's objection to administration; the Whig tradition of a "right of revolution"; the conception of natural rights, classical in our polity; the democratic tradition of individual participation in sovereignty; the attitude of the business world toward local regulation of enterprise; the clash of organized interests and opinions in a diversified community; and the divergences of attitude in different sections of the country and as between different groups in the same locality. We must not forget the many historical examples of large-scale public disregard of laws in our past. To give proper weight to these things, in connection with the social and economic effects of the prohibition law, is not a matter of a few months.

As to enforcement, there are no reliable figures to show the size of the problem. But the reported arrest in the last fiscal year of upward of 80,000 persons from every part of continental United States indicates a staggering number of what might be called focal points of infection. To these must be added the points of possible contact from without, along 3,700 miles of land boundaries, substantially 3,000 miles of frontage on the Great Lakes and connecting rivers (excluding Lake Michigan), and almost 12,000 miles of Atlantic, Gulf, and Pacific shore line. Thus there are about 18,700 miles of mainland of the continental United States at every point of which infection is possible.

There are no satisfactory estimates of the number of roads into the United States from Mexico and Canada. The number of smuggling roads from Canada is reported as at least 1,000, and on the Mexican border there are entrances into the United States at most points along a boundary of 1,744 miles.

To deal with an enforcement problem of this size and spread, the Federal Government can draw only on a portion of the personnel of three Federal services, whose staffs aggregate about 23,000. Approximately one-tenth of this number is in the investigative section of the Prohibition Unit. Of the remaining 20,000, only a small proportion of the personnel is available for actual preventive and investigative work. The remainder is engaged in work far different from prohibition.

These figures speak for themselves.

II. ADMINISTRATIVE DIFFICULTIES

A frequent complaint is that the Federal Government is prosecuting small cases and not getting at those responsible for the large supplies of illegal liquor. To get at the smugglers, the wholesale distributors, and those who manufacture and divert on a large scale, it is necessary to have either an integration of the forces working at the supply and distribution ends or a close working relation between the two forces. With respect to both liquor and narcotics, it is frequently stated by enforcement officials and those who study phases of the problem that the Federal officials who deal with local or retail distribution upset many an investigation which might lead to the sources of supply; and, on the other hand, investigators who are dealing with sources are frequently ineffectual in getting at persons who control the sources.

To adjust the machinery of Federal administration, as it had grown up for other purposes, to this huge problem of enforcement of prohibition is not easy and will require much further study. Unification, centralization of responsibility, and means of insuring cooperation between Federal and State agencies are things to which we must come, quite apart from the exigencies of enforcement of prohibition, but which can not be achieved overnight.

III. LEGAL DIFFICULTIES AND PROPOSED REMEDIES

When we come to the legal difficulties in enforcement, it is possible to speak with much more assurance as to what may be done at once by way of improvement.

Pending study of the whole subject, there are certain features of Federal enforcement of the law as it stands with respect to which the testimony of judges, district attorneys, and enforcement officers is general and substantially unanimous. If on no other grounds than to give the law a fair trial, there are obvious and uncontroverted difficulties, abundantly pointed out by experience, which may, and, as we think, should be met so as to make enforcement more effective. Summarily stated, these difficulties are due to (1) the division of enforcement between the Treasury Department and the Department of Justice; (2) the disordered condition of Federal legislation involved in enforcement; (3) the possibilities of evading or defeating injunction proceedings, commonly known as padlock injunctions, by means of transfers and concealments of persons interested in property used for manufacture and sale of illicit liquor; and (4) the congestion of petty prosecutions in the Federal courts, requiring great delays, interfering seriously with general business, and leading to wholesale disposition of accumulated causes under circumstances impairing the dignity of and injuring respect for those tribunals.

Without prejudice to any ultimate conclusions, we think that in the interest of promoting observance of and respect for law the national prohibition law may well be strengthened and its effectiveness increased in these important particulars.

making possible speedy disposition. As things are now, the cumbersome process of indictment must be resorted to even in the most petty case. The result is that large numbers of these cases pile up and have to be disposed of offhand by "bargain day," and similar unseemly processes. In any case which the district attorney elects to prosecute by indictment the judge will still have the discretion provided for in the existing law. If it is objected that a wide discretion is put in the district attorney by the proposed legislation, the answer is that he has that discretion already in effect, simply exercising it, not in the beginning by the mode in which he prosecutes but later by including any particular prosecution in the wholesale disposition on some bargain day.

Thus, a few simple legislative enactments, in our opinion, could be made greatly to strengthen enforcement of the national prohibition law. Such measures, making it more adequate to its purposes, are suggested by study of material which has come to us from all agencies concerned with its administration. We think they could not in anywise interfere with any ultimate program which we may have to recommend, and would in the meantime advance observance of the law.

Respectfully,

GEORGE W. WICKERSHAM, *Chairman*
(For the Commission).

NOVEMBER 21, 1929.

REPORT SUPPLEMENTAL TO THE PRELIMINARY REPORT SUBMITTED TO THE PRESIDENT ON NOVEMBER 21, 1929

In our preliminary report we suggested four measures for increasing the effectiveness of the national prohibition act, namely, (1) transfer to the Department of Justice of investigation and preparation of cases for prosecution and related activities of enforcement, (2) codification of Federal legislation applicable to the enforcement of prohibition, (3) provision for making the procedure in so-called padlock injunctions more effective, and (4) provisions for relieving congestion in the Federal courts.

I. TRANSFER OF INVESTIGATIONS AND PREPARATION OF CASE TO THE DEPARTMENT OF JUSTICE

We have examined carefully the draft bill agreed upon by the Department of the Treasury and the Department of Justice and are of opinion that it is well adapted to the purpose and that the partition of authority which it makes is well conceived and carried out. We recommend that this measure be enacted and that thereupon, in codifying the laws relating to enforcement of prohibition, the proper amendments and adaptations be made to adjust the existing laws in detail to the changes so made.

For the remainder of the proposal, a separate act would be needed. We recommend the following:

SECTION 1. In prosecutions by complaint or information for casual or slight violations of Title II of the national prohibition act, the accused shall plead to the complaint or information before the United States commissioner before whom he may be taken pursuant to section 595, title 18, United States Code. If he pleads guilty, the commissioner shall transmit the complaint and warrant to the clerk of the district court, with a report of the plea, and thereupon judgment of conviction shall be rendered and sentence imposed by a judge of the court.

SEC. 2. If the accused so prosecuted pleads not guilty, there shall be a hearing before the United States commissioner, who shall have the same powers with respect to summoning witnesses for prosecution and defense as those of a magistrate in a prosecution before him under the usual mode of process in the State, and the commissioner shall, as soon as practicable thereafter, transmit the complaint and warrant to the clerk of the district court, with a report of the plea and hearing and his finding and recommendations, and a judge of the court, on examination of the report and finding, may render judgment of conviction or acquittal as the case may be, and in case of conviction impose sentence.

SEC. 3. In case conviction is recommended by the commissioner, the accused may within three days after filing of the commissioner's report, except to the report in writing and may also demand trial by jury. In case trial by jury is not so demanded it shall operate as a waiver of any right thereto.

SEC. 4. In case the report of the commissioner is excepted to and trial by jury demanded, the district attorney may elect whether to go to trial on the complaint or information or to submit the case to a grand jury; and in case the grand jury finds an indictment, the prosecution shall then proceed upon such indictment.

SEC. 5. In addition to the fees provided for in section 597, title 28, United States Code, the United States commissioner shall be entitled to the following fees: for reporting a plea of guilty, $1; for hearing, finding, and report in case of plea of not guilty, $5.

SEC. 6. The circuit judges in each circuit shall have power to make rules for the details of practice suitable to carry out the several provisions of this act.

As to the constitutionality of giving power to the judges of the court of review to make rules governing the details of procedure in the court of first instance, see:

Wayman *v.* Southard (10 Wheat. 1).

Beers *v.* Haughton (9 Pet. 358).

The Supreme Court of the United States has been given the broadest rule-making power with respect to procedure in the district courts in equity, admiralty, bankruptcy, and copyright. For the general run of cases, the circuit courts of appeal now stand toward the Federal courts of first instance where the Supreme Court did formerly. Hence the historical argument, relied upon by Story, J., in Beers *v.* Haughton, would now apply to a rule-making power in the circuit judges.

It is manifest that the procedure here recommended might well be extended to all petty prosecutions in the district court. But it may be expedient to confine it for the present to liquor cases. Legislation could extend it later to other petty cases if found expedient.

Respectfully,

GEO. W. WICKERSHAM, *Chairman*
(For the Commission).

MR. PRESIDENT: The Treasury has been considering for some time the creation of a unified border patrol, in order that the execution of the customs, immigration, prohibition, and other laws regulating or prohibiting the entry into the United States of persons and merchandise may be made more effective. The following recommendations are submitted for your consideration and transmission to the Congress if you approve:

(1) The entry into the United States of all persons should be prohibited except at points of entry designated by the President.

(2) The present number of points of entry should be increased sufficiently to permit uninterrupted and unhampered intercourse with our neighboring countries over established and customary routes.

(3) A unified border patrol should be created to patrol the border and prevent illegal entry.

(4) The unified border patrol should be a part of the Coast Guard.

A specific statutory prohibition of entry into the United States, of either aliens or citizens, in any manner and with or without merchandise, except at designated points, is essential as a basis if the border patrol is to function efficiently, since it will give the patrol a plain and simple rule to enforce, and relieve them of any necessity of interpreting and applying the customs, immigration, and other laws. Customs, immigration, quarantine, and other officers will be stationed at the designated points of entry, and the administration of the laws at these points should remain, of course, under the jurisdiction of the present services.

The points of entry should be designated by the President, just as ports of entry are now designated. They should be established at the boundary intersection of all established and customary routes and wherever intercourse with our neighboring countries justifies. Flexibility is essential in order to permit an increase in the points of entry conformably with the growth of commerce and travel and in order to meet seasonal necessities and constantly changing conditions. There should be a substantial increase, rather than a decrease, in the present number of customs and immigration stations.

It is believed that the proposed plan will promote materially the convenience of the traveling public, as well as relieve those traveling on inland highways from inspection. To-day, generally speaking, travelers may enter the United States anywhere but must report at a customhouse, which may well be entirely out of their line of travel, and declare and enter their merchandise. Moreover, our present patrol must necessarily be maintained on interior roads and not along the border, with the consequent necessity of stopping vehicles and pedestrians who may never have left the country. Adequate provision should, of course, be made by regulation so as to meet the needs of farmers and others whose property extends across the border or who are living along the border.

The unified border patrol should be charged with the enforcement of the statutory prohibition—that is, it should be charged with the duty of guarding the border between the designated points and preventing entry of all persons and merchandise, over land and water borders, except at the points of entry specified, where the usual customs, immigration, quarantine, and other officers will be stationed. The proposed unified border patrol will replace the patrols now maintained by both the Customs Service and the Immigration Service on our Mexican and Canadian boundaries, and will cover the same territory as those patrols, thus complementing the work of the Coast Guard on the maritime boundaries, eliminating duplication of effort, concentrating responsibility for the protection of all our borders, and bringing about a more effective coordination of the work.

Preliminary surveys have established the practicability of the plan. An actual physical examination of our entire border, however, will be necessary prior to the final designation of points of entry or the closing of trails and untraveled roads. The work must be done in harmonious cooperation with our neighboring countries and their consent obtained as a matter of courtesy. It is believed that at least six months will be required before the new border patrol can be organized and the preliminary work completed.

The cost of maintaining the unified border patrol will exceed the present cost of maintaining our customs and immigration patrols, and additional immigration and customs stations will be required. Surveys upon which estimates of the increased costs can be based are under way and should soon be completed.

Very sincerely,

A. W. Mellon,
Secretary of the Treasury.

The President,
The White House, January 18, 1930.

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71st Congress } HOUSE OF REPRESENTATIVES { **Report**
2d Session } { No. 1828

UNITED STATES BORDER PATROL

June 9, 1930.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. Hoch, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H. R. 11204]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 11204) to regulate the entry of persons into the United States, to establish a border patrol in the Coast Guard, and for other purposes, having considered and amended the same, report thereon with a recommendation that it pass.

Amend the bill as follows:

Strike out all after the enacting clause and insert the following in lieu thereof:

That this act may be cited as the "Border patrol act, 1930.

Sec. 2. (a) There is hereby established in the Department of the Treasury an organization to be known as the United States border patrol. In order to secure close cooperation between the patrols along the land and water boundaries of the United States the United States border patrol shall be assigned, for administrative purposes, to the office of the Assistant Secretary of the Treasury having supervision of the United States Coast Guard.

(b) The President is authorized to transfer to the United States border patrol all or any part of the personnel of the border patrols of the Bureau of Immigration of the Department of Labor and of the Bureau of Customs of the Department of the Treasury, or of other border patrols, together with their equipment and appurtenances, and to discontinue such border patrols, or parts thereof, from time to time, when in his judgment such action is advisable by reason of the establishment and effective operation of the United States border patrol created by this act. In case of any such transfer or discontinuance, any unexpended appropriations apportioned for expenditure for the compensation of, or in connection with the performance of the duties of, the personnel transferred or the patrol discontinued, shall be available for expenditure in carrying out the provisions of this act.

(c) The Secretary of the Treasury is authorized to appoint such officers and employees, in accordance with the competitive provisions of the civil service law, and to purchase such motor vehicles, boats, horses, supplies, and equipment as are necessary in the administration of this act.

Sec. 3. It shall be the duty of the United States border patrol to enforce the provisions of this act against unlawful entry of persons into the United States, except at ocean boundaries of the United States, and to perform under regulations that may be prescribed by the Secretary of the Treasury such other duties as are, in his judgment, advisable in connection with the unlawful entry of persons or property into the United States.

SEC. 4. (a) It shall be unlawful for any person to enter the United States from a foreign country at any place other than a point of entry which shall be designated by the President, except that this section shall not be applicable in the case of—

(1) Any person who in entering the United States complies with regulations which shall be prescribed by the President for the convenience of persons residing or owning property on or in the neighborhood or vicinity of the boundaries of the United States;

(2) Any person who in entering the United States complies with the air commerce act of 1926 and the regulations prescribed thereunder.

(b) Any officer or member of the United States border patrol may arrest any person unlawfully entering the United States; may seize any merchandise unlawfully transported into the United States or in the possession of any person unlawfully entering the United States, or any vessel, vehicle, or aircraft, in which such unlawful entry is made; and shall promptly deliver any such person, merchandise, vessel, vehicle, or aircraft, into the custody of the appropriate officer.

(c) Any person who violates the provisions of this section shall be guilty of a misdemeanor subject to a penalty of $100. Such penalty shall be a lien against any vessel, vehicle, or aircraft in which the entry in violation of this section is made. Such penalty may be enforced, or may be remitted or mitigated, in the same manner as a penalty for a violation of the customs revenue laws of the United States. Action to enforce the penalty provided in this paragraph shall not be taken if in violating the provisions of this section a penalty (whether criminal or civil) has been incurred for violation of any other law of the United States.

(d) Any vessel or vehicle seized by officers or agents of the Treasury Department and forfeited to the United States as specified in sections 1 and 2 of the act entitled "An act relating to the use or disposal of vessels or vehicles forfeited to the United States for violation of the customs laws or the national prohibition act, and for other purposes," approved March 3, 1925, as amended, may, in the discretion of the Secretary of the Treasury, be taken and used, or may, upon application of the Secretary of the Treasury, be ordered by the court to be delivered to the Treasury Department for use in the enforcement of the provisions of this act instead of for use as provided in such act of March 3, 1925.

SEC. 5. There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this act and for the establishment and maintenance of points of entry designated under this act, including the acquisition of necessary sites and the construction of necessary buildings, or in the execution of the customs, immigration, and other laws regulating or prohibiting the entry into the United States of persons and merchandise as a result of the establishment of such points of entry.

SEC. 6. This act shall take effect upon its approval, except that sections 3 and 4 shall take effect upon the 1st day of the seventh month after its approval.

Amend the title so as to read:

A bill to establish the United States border patrol, to regulate the entry of persons into the United States, and for other purposes.

The purpose of this measure is to establish a unified patrol service along the land borders of the United States, to make more effective the laws against unlawful entry of persons and property, and at the same time to serve the convenience of those lawfully crossing the borders. The establishment of this unified patrol service was recommended by the President in his message to Congress at the opening of the present session and is earnestly favored by all departments involved.

The two principal patrol services now maintained along the Canadian and Mexican borders are the immigration patrol service in the Department of Labor and the customs patrol service in the Treasury Department. There are now in the immigration patrol 847 men and in the customs patrol 722 men, making a total of 1,569. The immigration patrol service has been largely built up since the passage of the restrictive immigration laws and is doing splendid service in the apprehension of aliens unlawfully entering and of smugglers of aliens. The immigration patrol and the customs patrol on the Canadian border are civil-service organizations, while the customs patrol on the Mexican border is not under civil service. These are the only present services that may be regarded as strictly patrol services. The Public Health Service and the Department of Agriculture maintain a more or less mobile force, who are used in different places as the occasion arises, for administration of the quarantine laws at the borders. The Secretary of Agriculture states that while the activities of his department at border points are not directly affected by the bill, "the indirect results would be beneficial" to the work of the department in the enforcement of the plant quarantine act and with the administration of regulations relating to the inspection and quarantine of import livestock, the importation of meat products, feeding materials, etc. The Department of Agriculture now has 74 inspectors for the enforcement of the plant quarantine act and 7 veterinary inspectors along the Mexican border and 18 veterinary inspectors and 2 plant quarantine inspectors on the Canadian border.

It is agreed by all departments involved that a unified patrol service on the two borders would tend to prevent the present overlapping and duplication of work and would simplify administration and make it more effective.

Various suggestions have been made as to where the administration of this unified patrol service should be placed. The bill before the committee proposed to place it under the United States Coast Guard. While this proposal had much to commend it, the committee decided after thorough consideration that the plan presented very serious practical difficulties. In the first place, the United States Coast Guard is essentially a sea service. It is for that kind of service its officers and men are specially trained, and about the sea and ships center the traditions of the service. To place under the Coast Guard even for administrative purposes the men and officers required for the land border would be to introduce into it an essentially different sort of service. But aside from that consideration, the plan presented great practical difficulties. The Coast Guard is a military organization, and earnest objections were made to giving the border patrol along the Canadian and Mexican borders a military character. Objections were also urged in behalf of the men in the two present services now doing excellent work along their particular lines and whose only chance for remaining in the service under the proposed plan would come through surrendering their civil service status and taking enlistment in a military service. More than that, it would not be possible to secure supervising officials in less than four or five years if such officials had to be secured as commissioned officers of the Coast Guard service. The latter service is now greatly in need of additional commissioned personnel to discharge the duties already upon it. There are other difficulties in the proposal not necessary to state here.

The committee proposes that a unified patrol service be established as a separate organization, under civil service laws, to be known as the United States border patrol, and that it be placed under the same

Assistant Secretary of the Treasury who now has general supervision of the Coast Guard. Under this proposal three services would be under the same supervision, covering Coast Guard, border patrol, and customs. This will form a unity both in theory and administration. The Coast Guard now has the duty of preventing unlawful entry along the ocean boundaries. The border patrol will have a similar duty along the land boundaries, and under the law contraband goods that are seized must be delivered to customs. The measure gives authority to the President to transfer any or all part of the present patrol services to the new United States border patrol. Of the 1,569 men now in these two services all have a civil-service status except 175 in the Customs Service on the Mexican border. All, including these 175, may be transferred to the new service, but hereafter all appointments would be under civil service laws. Both the immigration and customs patrols are uniformed men. The new service would be similar in that respect.

The measure proposes that the President shall designate what are to be known as points of entry at all leading border crossings on the two borders, and that hereafter it shall be unlawful to cross the border into the United States except at a point of entry. At these points of entry would be stationed the administrative officers dealing with immigration, customs, etc., and upon the border patrol would rest the duty of taking into custody those crossing at places other than a point of entry and delivering them, together with any goods in their possession, to the appropriate officer at the point of entry. The border patrol men would not be interested primarily in any particular law, whether it be immigration, customs, prohibition, quarantine, or other statute, but would be concerned with unlawful entry for whatever purpose it might be made. If the offender be an alien or a smuggler of aliens, he would be delivered at once to the immigration official at the point of entry; if he were an American citizen and had merchandise with him he would be delivered to the customs official at the point of entry, etc. Under this plan the patrolman's duty would be to see to it as far as possible that everyone entered through a point of entry where appropriate supervision and administration would be secured. It is believed that this plan would tend materially to strengthen all of our immigration, customs, and prohibition laws against unlawful entry.

Under present law aliens can only enter at a port of entry. Citizens may enter anywhere along the border, but if they come on foot and have with them merchandise of any sort whatsoever, even though it be merely hand baggage which they have taken with them in leaving the country, they must report to the customs officers at a port of entry. If they come in an automobile or any other vehicle they must report at a customs port of entry even though they bring no goods of any sort. Under present law the only citizen entering the country who does not need to report at a port of entry is one who comes on foot bringing no baggage and carrying no property of any sort on his person. Obedience to this present law causes great inconvenience to citizen travelers since in many cases the port of entry is many miles from the place where the traveler enters. Under the proposed plan the points of entry would be placed at such reasonable distances along the border as to save many miles of travel to citizens lawfully entering. In order that there may be no inconvenience to people living or owning property along the border or within a reasonable distance from it, it is proposed that regulations be made under which such persons may come and go across the border without visiting the point of entry.

Tentative plans made as the result of thorough surveys of both borders conducted by the Labor Department and the Treasury Department call for a total on the two borders of 2,495 men, which is an increase of 924 above the two present patrol services. In addition to the men on duty on the border, a small number will be required as officials and employees at headquarters and in supervisory work. The current appropriation for the two present patrols is $3,914,386. Under the plan which called for establishment of this service in the Coast Guard the Treasury Department estimated that the total additional cost would be a little over $4,000,000. Since that plan, however, called for a military service with the necessity of military training, barracks, etc., it is thought that the additional cost under the plan proposed by this measure would be something less than that figure. The tentative plan calls for about 212 new stations along the borders. These details, of course, are subject to revision as further study by the department, and experience, dictate.

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LAWS PASSED BY TWELFTH LEGISLATURE OF PORTO RICO

The SPEAKER laid before the House the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Insular Affairs:

To the Congress of the United States:

As required by section 23 of the act of Congress approved March 2, 1917, entitled "An act to provide a civil government for Porto Rico, and for other purposes," I transmit herewith copies of the laws and resolutions enacted by the Twelfth Legislature of Porto Rico during its second regular session, from February 10 to April 15, 1930.

HERBERT HOOVER.

THE WHITE HOUSE, *June 30, 1930.*

RESIGNATION FROM A SELECT COMMITTEE

The SPEAKER laid before the House the following communication:

JUNE 25, 1930.

Hon. NICHOLAS LONGWORTH,
Speaker House of Representatives.

DEAR MR. SPEAKER: Since my appointment as a member of the committee selected pursuant to House Resolution 220, to investigate communist propaganda in the United States, I find that due to conditions of a character demanding my immediate and personal attention, I will be unable to attend the hearings as fixed, and, therefore, beg to tender herewith my resignation as a member of said committee.

I am, with sincere respect, very truly,

W. J. DRIVER.

The SPEAKER. Without objection, the resignation will be accepted, and the Chair appoints, to fill the vacancy created by the resignation, the gentleman from Mississippi [Mr. HALL].

BRIDGE ACROSS GRAND CALUMET RIVER, EAST CHICAGO, IND.

Mr. WOOD. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 13035) to extend the times for commencement and completing the construction of a bridge across the Grand Calumet River at East Chicago, Ind., which I send to the desk and ask to have read.

The SPEAKER. The gentleman states that this is an emergency?

[illegible] is.

The Clerk read the bill, as follows:

Be it enacted, etc., That the times for commencing and completing the construction of a bridge across the Grand Calumet River at or near East Chicago, Ind., authorized to be built by the Chicago South Shore & South Bend Railroad and its successors and assigns, by an act of Congress approved February 13, 1929, are hereby extended one and three years, respectively, from February 13, 1930.

SEC. 2. The right to alter, amend, or repeal this act is hereby expressly reserved.

Mr. SCHAFER of Wisconsin. Mr. Speaker, reserving the right to object, may I ask the gentleman from Indiana if this is merely a railroad bridge, or a toll bridge?

Mr. WOOD. It is an interurban bridge.

Mr. SCHAFER of Wisconsin. It is not a toll bridge?

Mr. WOOD. No.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider the last vote was laid on the table.

UNITED STATES BORDER PATROL

Mr. PARKER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 11204) to regulate the entry of persons into the United States, to establish a border patrol in the Coast Guard, and for other purposes.

The SPEAKER. The gentleman from New York moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 11204. The question is on agreeing to the motion.

Mr. O'CONNOR of New York. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. Evidently there is not a quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 235, nays 36, not voting 156, as follows:

[Roll No. 81]

YEAS—235

Abernethy
Adkins
Allen
Almon
Arnold
Aswell
Ayres
Bachmann
Baird
Barbour
Beedy
Bell
Blackburn
Bland
Blanton
Bowman
Box
Briggs
Brigham
Browne
Browning
Busby
Butler
Campbell, Iowa
Canfield
Cannon
Carter, Calif.
Carter, Wyo.
Cartwright
Chalmers
Chindblom
Christgau
Clague
Collier
Collins
Colton
Cooper, Ohio
Cooper, Tenn.
Cox
Coyle
Cramton
Cross
Crowther
Culkin
Dallinger
Darrow
Davis
Denison
Dickinson
Dominick
Doughton
Dowell
Doxey
Driver
Dunbar
Dyer
Eaton, Colo.
Elliott
Ellis
Englebright
Eslick
Esterly
Evans, Calif.
Fisher
Fitzgerald
Fort
Foss
Frear
Freeman
French
Garber, Okla.
Garber, Va.
Garrett
Gasque
Gibson
Glover
Goodwin
Green
Greenwood
Gregory
Guyer
Hadley
Hale
Hall, Ill.
Hall, Ind.
Hall, Miss.
Hall, N. Dak.
Halsey
Hammer
Hardy
Hare
Hartley
Hastings
Haugen
Hawley
Hickey
Hill, Ala.
Hill, Wash.
Hoch
Hogg
Holaday
Hooper
Hope
Houston, Del.
Howard
Huddleston
Hull, Morton D.
Hull, Wis.
Jeffers
Jenkins
Johnson, Ind.
Johnson, Nebr.
Johnson, Okla.
Johnson, S. Dak.
Johnson, Tex.
Johnson, Wash.
Jonas, N. C.
Jones, Tex.
Kahn
Kendall, Ky.
Kennedy
Ketcham
Kincheloe
Kinzer
Kopp
Kurtz
Kvale
Lambertson
Langley
Lanham
Lankford, Ga.
Lankford, Va.
Larsen
Lea
Leavitt
Lehlbach
Letts
Lozier
Luce
Ludlow
McClintic, Okla.
McClintock, Ohio
McDuffie
McFadden
McKeown
McLaughlin
McMillan
McSwain
Maas
Mapes
Menges
Merritt
Michener
Miller
Milligan
Montague
Montet
Moore, Ohio
Moore, Va.
Morgan
Mouser
Nelson, Me.
Nelson, Mo.
Nolan
O'Connor, La.
O'Connor, Okla.
Oldfield
Oliver, Ala.
Palmer
Palmisano
Parker
Patman
Patterson
Pritchard
Purnell
Quin
Ragon
Rainey, Henry T.
Ramey, Frank M.
Ramseyer
Ramspeck
Rankin
Ransley
Reed, N. Y.
Reid, Ill.
Robinson
Rogers
Rowbottom
Rutherford
Sanders, Tex.
Sandlin
Schafer, Wis.
Seiberling
Shaffer, Va.
Short, Mo.
Shott, W. Va.
Shreve
Simmons
Sloan
Snow
Sparks
Speaks
Sproul, Ill.
Stafford
Stalker
Stone
Strong, Kans.
Strong, Pa.
Summers, Wash.
Sumners, Tex.
Swanson
Swing
Taber
Tarver
Taylor, Tenn.
Thatcher
Thompson
Thurston
Timberlake
Turpin
Underwood
Vestal
Vincent, Mich.
Wason
Watres
Welch, Calif.
White
Whittington
Wilson
Wolfenden
Wolverton, N. J.
Wolverton, W. Va.
Wood
Woodruff
Yon

NAYS—36

Ackerman
Black
Boylan
Celler
Clancy
Cochran, Mo.
Connery
Crosser
Cullen
Douglass, Mass.
Evans, Mont.
Fenn
Fitzpatrick
Gambrill
Garner
Gavagan
Granfield
Hess
Hull, William E.
Irwin
Knutson
LaGuardia
Lampert
Lindsay
McCormack, Mass.
McLeod
Martin
Mead
Mooney
Morehead
Niedringhaus
O'Connell
Prall
Tinkham
Tucker
Wigglesworth

NOT VOTING—156

Aldrich
Allgood
Andresen
Andrew
Arentz
Auf der Heide
Bacharach
Bacon
Bankhead
Beck
Beers
Bloom
Bohn
Bolton
Brand, Ga.
Brand, Ohio
Britten
Brumm
Brunner
Buchanan
Buckbee
Burdick
Burtness
Byrns
Cable
Campbell, Pa.
Carley
Chase
Christopherson
Clark, Md.
Clark, N. C.
Clarke, N. Y.
Cochran, Pa.
Cole
Connolly
Cooke
Cooper, Wis.
Corning
Craddock
Crail
Crisp
Curry
Davenport
Dempsey
De Priest
DeRouen
Dickstein
Douglas, Ariz.
Doutrich
Doyle
Drane
Drewry
Eaton, N. J.
Edwards
Estep
Finley
Fish
Free
Fuller
Fulmer
Gifford
Golder
Goldsborough
Graham
Griffin
Hancock
Hoffman
Hopkins
Hudson
Hudspeth
Hull, Tenn.
Igoe
James
Johnson, Ill.
Johnston, Mo.
Kading
Kearns
Kelly
Kemp
Kendall, Pa.
Kerr
Kiefner
Kiess
Korell
Kuns
Leech
Linthicum
McCormick, Ill.
McReynolds
Magrady
Manlove
Mansfield
Michaelson
Moore, Ky.
Murphy
Nelson, Wis.
Newhall
Norton
O'Connor, N. Y.
Oliver, N. Y.
Owen
Parks
Peavey
Perkins
Pittenger
Pou
Pratt, Harcourt J.
Pratt, Ruth
Quayle
Rayburn
Reece
Romjue
Sabath
Sanders, N. Y.
Schneider
Sears
Seger
Selvig
Simms
Sinclair
Sirovich
Smith, Idaho
Smith, W. Va.
Snell
Somers, N. Y.
Spearing
Sproul, Kans.
Steagall
Stedman
Stevenson
Stobbs
Sullivan, N. Y.
Sullivan, Pa.
Swick
Taylor, Colo.
Temple
Tilson
Treadway
Underhill
Vinson, Ga.
Wainwright
Walker
Warren
Watson
Welsh, Pa.
Whitehead
Whitley
Williams
Williamson
Wingo
Woodrum
Wright
Wurzbach
Wyant
Yates
Zihlman

So the motion was agreed to.

The Clerk announced the following pairs:

General pairs until further notice:

Mr. Snell with Mr. Bankhead.
Mr. Hudson with Mr. Drane.
Mr. Watson with Mr. Wingo.
Mr. Tilson with Mr. O'Connor of New York.
Mr. Free with Mr. Pou.
Mr. Swick with Mr. Steagall.

Mr. Harcourt J. Pratt with Mr. Carley.
Mr. Treadway with Mr. Warren.
Mr. Crail with Mr. Griffin.
Mr. Bacharach with Mr. Linthicum.
Mr. Manlove with Mr. Buchanan.
Mr. Beers with Mr. Somers of New York.
Mr. Aldrich with Mr. Byrns.
Mr. Murphy with Mr. Wright.
Mr. Britten with Mr. Sullivan of New York.
Mr. Temple with Mr. Allgood.
Mr. Yates with Mr. Williams of Texas.
Mr. Graham with Mr. Crisp.
Mr. Hopkins with Mr. Edwards.
Mr. Pittenger with Mr. Moore of Kentucky.
Mr. Sinclair with Mrs. Owen.
Mr. Welsh of Pennsylvania with Mr. Rayburn.
Mr. Kiess with Mr. Sabath.
Mr. Johnston of Missouri with Mr. Brand of Georgia.
Mr. Davenport with Mr. Woodrum.
Mr. Connolly with Mr. Bloom.
Mr. Perkins with Mr. Vinson of Georgia.
Mr. Leech with Mr. Corning.
Mr. Michaelson with Mr. Quayle.
Mr. Kendall of Pennsylvania with Mr. Oliver of New York.
Mr. Golder with Mrs. Norton.
Mr. Kiefner with Mr. Mansfield.
Mr. Estep with Mr. Sirovich.
Mr. Brumm with Mr. Douglas of Arizona.
Mr. Beck with Mr. Taylor of Colorado.
Mr. Magrady with Mr. Drury.
Mr. Fish with Mr. Whitehead.
Mr. Doutrich with Mr. Stevenson.
Mr. Seger with Mr. Fuller.
Mr. Chase with Mr. Hull of Tennessee.
Mr. Campbell of Pennsylvania with Mr. Kemp.
Mr. Bolton with Mr. Parks.

The result of the vote was announced as above recorded.

The doors were opened.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 11204) to regulate the entry of persons into the United States, to establish a border patrol in the Coast Guard, and for other purposes, with Mr. Cramton in the chair.

The Clerk read the title of the bill.

Mr. PARKER. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from New York [Mr. Parker] asks unanimous consent that the first reading of the bill be dispensed with. Is there objection?

Mr. O'CONNOR of New York. Mr. Chairman, I object.

The Clerk read the bill, as follows:

Be it enacted etc., That this act may be cited as the "Border patrol act, 1930."

ENTRY OF PERSONS INTO THE UNITED STATES

Sec. 2. (a) It shall be unlawful for any person to enter the United States from a foreign country at any place other than a point of entry designated by the President, except that this section shall not be applicable in the case of—

(1) Any person who in entering the United States complies with the regulations prescribed by the President for the convenience of persons residing or owning property on or adjacent to the boundaries of the United States;

(2) Any person who in entering the United States complies with the air commerce act of 1926 and the regulations prescribed thereunder.

(b) Any person who violates the provisions of this section shall be guilty of a misdemeanor and, in addition to all other penalties provided by law, be subject to a penalty of $100. Such penalty shall be a lien against any vessel, vehicle, or aircraft in which the entry in violation of this section is made. Such penalty may be enforced, or may be remitted or mitigated, in the same manner as a penalty for a violation of the customs revenue laws of the United States; but such penalty shall not be enforced if a penalty (whether criminal or civil) for violation of any other law of the United States has been incurred.

BORDER PATROL

Sec. 3. (a) There is hereby established an organization to be known as the United States Border Patrol, which shall operate under and be administered by the Commandant of the Coast Guard.

(b) There are hereby authorized in the Coast Guard, for service in the border patrol, such additional enlisted ratings as the Secretary of the Treasury may determine.

(c) There are hereby authorized in the Coast Guard, for service in the border patrol, the warrant grade of warrant officer (border patrol) and the chief warrant grade of chief warrant officer (border patrol), and persons holding appointments in said grades shall receive the same pay, allowances, and benefits as other warrant officers and chief warrant officers, respectively, of like length of service, in the Coast Guard.

(d) Any officer or enlisted man of the Coast Guard may be detailed by the commandant to duty in connection with the border patrol, as in his judgment circumstances may require.

(e) The number of commissioned officers of the line on the active list authorized in the Coast Guard is hereby increased by 60, distributed among the grades in the proportions provided for distribution in the grades of line officers by section 1 of the act entitled "An act to readjust the commissioned personnel of the Coast Guard, and for other purposes," approved March 2, 1929.

(f) The Secretary of the Treasury is authorized to establish receiving and training stations, with necessary barracks, other buildings, and equipment, for the training of warrant officers and enlisted men of the border patrol.

ENFORCEMENT

Sec. 4. (a) It shall be the duty of the border patrol to enforce the provisions of this act, except at ocean boundaries of the United States.

(b) Any officer or enlisted man of the border patrol may arrest any person entering the United States in violation of this act; may seize any merchandise in the possession of any person entering the United States in violation of this act, or any vessel, vehicle, or aircraft, in which the entry in violation of this act is made; and may deliver any such merchandise, vessel, vehicle, or aircraft, or any person arrested for violation of section 2, into the custody of such officers, at a point of entry, or elsewhere, as the Secretary of the Treasury may by regulation prescribe.

EXISTING PATROLS

Sec. 5. The President is authorized to discontinue the border patrols of the Bureau of Customs and the Bureau of Immigration, or parts thereof, from time to time after the approval of this act, when in his judgment such action is advisable by reason of the establishment and effective operation of the border patrol created by this act.

EMPLOYEES AND EQUIPMENT

Sec. 6. (a) The Secretary of the Treasury is authorized to appoint such employees and to purchase such motor vehicles, boats, horses, supplies, and equipment as are necessary in the administration of this act.

(b) Any vessel or vehicle forfeited to the United States as specified in sections 1 and 2 of the act entitled "An act relating to the use or disposal of vessels or vehicles forfeited to the United States for violation of the customs laws or the national prohibition act, and for other purposes," approved March 3, 1925, may, in the discretion of the Secretary of the Treasury, be taken and used, or may, upon application of the Secretary of the Treasury, be ordered by the court to be delivered to the Treasury Department for use in the enforcement of the provisions of this act instead of for use as provided in such act of March 3, 1925.

EXECUTION OF OTHER LAWS

Sec. 7. There are authorized to be appropriated such amounts as may be necessary for the establishment and maintenance of points of entry designated under this act, including the acquisition of necessary sites and the construction of necessary buildings, or in the execution of the customs, immigration, and other laws regulating or prohibiting the entry into the United States of persons and merchandise as a result of the establishment of such pointe of entry.

EFFECTIVE DATE

Sec. 8. This act shall take effect upon its approval, except that sections 2 and 4 shall take effect upon the 1st day of the seventh month after its approval.

With the following committee amendment:

Strike out all after the enacting clause and insert the following:

"That this act may be cited as the 'Border Patrol Act, 1930.'

"Sec. 2. (a) There is hereby established in the Department of the Treasury an organization to be known as the United States border patrol. In order to secure close cooperation between the patrols along the land and water boundaries of the United States the United States border patrol shall be assigned, for administrative purposes, to the office of the Assistant Secretary of the Treasury having supervision of the United States Coast Guard.

"(b) The President is authorized to transfer to the United States border patrol all or any part of the personnel of the border patrols of the Bureau of Immigration of the Department of Labor and of the Bureau of Customs of the Department of the Treasury, or of other border patrols, together with their equipment and appurtenances, and to discontinue such border patrols, or parts thereof, from time to time, when in his judgment such action is advisable by reason of the establishment and effective operation of the United States border patrol created by this act. In case of any such transfer or discontinuance, any unexpended appropriations apportioned for expenditure for the compensation of, or in connection with the performance of the duties of, the personnel transferred or the patrol discontinued, shall be available for expenditure in carrying out the provisions of this act.

"(c) The Secretary of the Treasury is authorized to appoint such officers and employees, in accordance with the competitive provisions of the civil service law, and to purchase such motor vehicles, boats, horses, supplies, and equipment as are necessary in the administration of this act.

"Sec. 3. It shall be the duty of the United States border patrol to enforce the provisions of this act against unlawful entry of persons into the United States, except at ocean boundaries of the United States, and to perform under regulations that may be prescribed by the Secretary of the Treasury such other duties as are, in his judgment, advisable in connection with the unlawful entry of persons or property into the United States.

"SEC. 4. (a) It shall be unlawful for any person to enter the United States from a foreign country at any place other than a point of entry which shall be designated by the President, except that this section shall not be applicable in the case of—

"(1) Any person who in entering the United States complies with regulations which shall be prescribed by the President for the convenience of persons residing or owning property on or in the neighborhood or vicinity of the boundaries of the United States;

"(2) Any person who in entering the United States complies with the air commerce act of 1926 and the regulations prescribed thereunder.

"(b) Any officer or member of the United States border patrol may arrest any person unlawfully entering the United States; may seize any merchandise unlawfully transported into the United States or in the possession of any person unlawfully entering the United States, or any vessel, vehicle, or aircraft in which such unlawful entry is made; and shall promptly deliver any such person, merchandise, vessel, vehicle, or aircraft into the custody of the appropriate officer.

"(c) Any person who violates the provisions of this section shall be guilty of a misdemeanor subject to a penalty of $100. Such penalty shall be a lien against any vessel, vehicle, or aircraft in which the entry in violation of this section is made. Such penalty may be enforced, or may be remitted or mitigated, in the same manner as a penalty for a violation of the customs revenue laws of the United States. Action to enforce the penalty provided in this paragraph shall not be taken if in violating the provisions of this section a penalty (whether criminal or civil) has been incurred for violation of any other law of the United States.

"(d) Any vessel or vehicle seized by officers or agents of the Treasury Department and forfeited to the United States as specified in sections 1 and 2 of the act entitled 'An act relating to the use or disposal of vessels or vehicles forfeited to the United States for violation of the customs laws or the national prohibition act, and for other purposes,' approved March 3, 1925, as amended, may, in the discretion of the Secretary of the Treasury, be taken and used, or may, upon application of the Secretary of the Treasury, be ordered by the court to be delivered to the Treasury Department for use in the enforcement of the provisions of this act instead of for use as provided in such act of March 3, 1925.

"SEC. 5. There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this act and for the establishment and maintenance of points of entry designated under this act, including the acquisition of necessary sites and the construction of necessary buildings, or in the execution of the customs, immigration, and other laws regulating or prohibiting the entry into the United States of persons and merchandise as a result of the establishment of such points of entry.

"SEC. 6. This act shall take effect upon its approval, except that sections 3 and 4 shall take effect upon the first day of the seventh month after its approval."

Amend the title so as to read: "A bill to establish the United States border patrol, to regulate the entry of persons into the United States, and for other purposes."

Mr. PARKER. Mr. Chairman, I yield two minutes to the gentleman from Michigan [Mr. HOOPER].

Mr. HOOPER. Mr. Chairman and ladies and gentlemen of the committee, I think every Member of the House knows that my distinguished colleague [Mr. HUDSON] has been very deeply interested in the passage of this bill. He is not here to take part in the discussion of the bill. He was happily married on June 28. [Applause.] I am certain that all the Members of the House on both sides will join with me and my colleagues from Michigan in wishing him great happiness and long life. [Aplause.]

Mr. Chairman, I ask unanimous consent, on behalf of our colleague [Mr. HUDSON], that he be given permission to revise and extend his remarks, and that in that extension there may be incorporated a very brief editorial from the Detroit Free Press upon the subject of the bill before the committee.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HUDSON. Mr. Speaker, very important personal matters make it imposible for me to be present and take part in the discussion of the bill H. R. 11204, before the House to-day. I have therefore asked for this privilege of extension.

I introduced the first bill providing for a United States border patrol in the first session of the Sixty-ninth Congress, known as H. R. 9731. The bill was designed primarily to create an establishment which would do police work upon the borders of the United States. That bill provided for the establishment of this unit of enforcement in the Labor Department and was designed to cover into the unit the existing immigration patrol, customs patrol, agricultural patrol, and the prohibition patrol, since taken over by the customs.

There are employed by the United States immigration patrol some 870 patrolmen; the United States Department of Agriculture employ 39 on the Mexican border and 41 on the Canadian border, or a total of 90 in their quarantine patrol, while the customs patrol has a total of 712.

The present bill is an outcome of my former consideration along this line. Living in a border State, I have come to realize there are more aliens coming into the United States every year illicitly than come through quotas. I also am confident of the fact that in the matter of smuggling goods the open, unprotected border affords a successful field for the smuggler. Without question the bulk of narcotics entering the country is received illegally over our borders.

The present bill, creating this patrol and placing it under a Secretary of the Treasury Department, has the sanction of the administration and has been drawn by the Treasury Department. I am confident that, while this measure would entail some further expense in the proper safeguarding of our borders, it will be especially worth while for the protection and preservation of our national institutions. In the last analysis I do not believe it will be found as expensive in its operation as the present administration by four departments of the law affecting our borders.

A dignified, intelligent, unified United States patrol will also remove much of the vexation and inconvenience caused many people of the United States by the present un-unified and scattered patrols. It also will unify in one police system the authority that is now vested in several, no one of which has complete authority.

This condition is a tremendous handicap, because in a majority of capital crimes committed against the United States it is found that the principals, criminals all, are engaged in more than one field of unlawful operation. There has been in certain circles the ridiculous opinion that persons who engage in one crime would not commit any other crime; however, statistics will reveal that in the majority of cases where major criminal acts have been committed against the Government, the principals are classified as professional law violators who unhesitatingly engage in almost any sort of crime.

My first thought for the adoption of an efficient plan to enforce all of the Federal laws is to establish a medium for the prevention of crime, and my second solution would be to combat crime. For both prevention and combat it is necessary to build a thoroughly efficient, well trained, and educated organization of capable officers who will in the performance of their prescribed duties be admired by the reputable citizens and feared by the criminals.

An organization of this kind would go into the field to prevent violations and enforce all Federal laws. The personnel, carefully selected, thoroughly educated, well dressed, and declared eligible to represent the Federal Government in a most important capacity, because the constabulary is a peace-time army, thrown into the field to combat a dangerous peace-time war that seems to ever rage, the war against crime, for the benefit of society and better government.

Inasmuch as the officer is charged with the enforcement of all Federal law, he can proceed without any molestation whatsoever to accomplish hurriedly and accurately for the Government, that which is quite impossible under the present system of departmental routine and regulation. If he may be originally called upon to probe a case of alien smuggling, and within the progress of the investigation he learns that the principles have or are violating other Federal laws, it would be his duty to conduct the work over each and every angle, eliminating the confusion we now have in transmitting certain cases to certain officers or departments, which always present a costly delay, better defined as an obstruction to the proper administration of justice.

Uniting of the patrol forces now existent and operating on our international boundary lines under one administrative head producing a civil-service organization, uniform in character and duty, are the objects sought in pending border patrol bill. It is inconceivable to anyone reading the bill or who attended the hearings before the committee considering the same that it in any way could possibly cause the great distress and annoyance as outlined by some of the Members who have spoken in opposition to-day. No attempt whatever is even remotely suggested looking toward either voluntary or compulsory registration of American citizens.

Instead of hampering or restricting or in any way disturbing the innocent travel between Canada and the United States, the proposed legislation would increase the convenience of such travel.

I apprehend much of the uneasiness that has arisen in the last day or two arises from the confusion over a new term used in the bill, viz, "designated place of entry," confounding the proposed "designated place of entry" with the existent "ports of entry," where now are established customs, immigration, and other such offices. The bill authorizes the President to establish all along the borders designated places of entry where for the convenience of the citizen coming in without merchandise or goods purchased in a foreign country makes no report and simply comes and goes as an ordinary business activity.

In addition to the convenience thus created by the bill for American citizens in general the bill specifically makes exception through presidential regulation, "for the convenience of persons residing or owning property on or in the neighborhood or vicinity of the boundaries of the United States." This will thus relieve them even from the necessity of using the designated places of entry.

It has been suggested that the bill is in conflict with present navigation law and tariff act. The Department of Commerce assures us that there is no real conflict attempted, and that a slight amendment would easily clear up any misunderstanding if any exists. It is my earnest purpose and desire that no provision in the proposed law shall cause any inconvenience, annoyance, or hardship upon the yacht owners and pleasure-boat users of the Detroit River and our Great Lakes, and I can assure the great mass of boat users and my constituency of Detroit and Wayne County that no one will give more urgent protest to the passage of such restrictive legislation than myself.

The legislation arose out of the recommendation by President Coolidge in his last two messages and in the first and succeeding messages of President Hoover to this Congress. The purpose of the law is to make more efficient and save expense in bringing into one unit the enforcement arms of the Government against the smuggling of aliens, merchandise, narcotics, and other contrabands across the American borders. Its further purpose is to dignify the group of men who have charge of this enforcement work by the creation of this uniform, competent body. I am confident no one will suffer unless he purposely and willfully is attempting to break the laws of the United States against smuggling.

The proposed law is a logical step in tightening up enforcement against smuggling, and which can not be objected to without championing violation of law.

In conclusion, I desire to read an editorial from the Detroit Free Press of Saturday, June 21, 1930, entitled "The Border Patrol Act."

THE BORDER PATROL ACT

The protests that are being filed in Washington against the border patrol act of 1930 lack the virtue of consistency. The provision to which they take particular exception is that requiring all boats returning from Canadian and Mexican waters to report to the American customs. At present boats under 5 tons, which are not carrying merchandise purchased outside this country, are exempt from this requirement.

The essential question is this: Are Americans visiting Canada or Mexico in boats to enjoy privileges that are denied Americans visiting them in automobiles or on foot, when they return to their native shores?

A good deal of annoyance to innocent parties doubtless would be caused by the strict enforcement of such a regulation. A good deal of annoyance and inconvenience is now caused motorists by the necessity of reporting to the customs and submitting to search, when the suspicion that they are smuggling is sufficient to warrant it. A good deal of annoyance is caused those who travel by ferry by pocket-slapping at the dock. Are those who travel in boats of less than 5 tons alone to be exempted from the price the innocent must pay for protection against lawlessness? Are those who return to the United States in boats of 4.5 tons entitled to an exemption denied those who come back in boats of 5.5 tons? The only difference in their conveyances is that they are able to stow away a little less or a little more contraband. A just law can't take that into account.

The argument that the enactment of this provision would create an entire new class of "criminals" won't hold water. Criminals are not created by law. They create themselves by violating the law. The same argument might be urged against every criminal law on the books. The proposed regulation of small boats returning to the United States from Canadian or Mexican waters is a logical step in tightening up the enforcement of our laws against smuggling, which can not be objected to, as long as land conveyances are required to report to the customs without championing the continuance of a flagrant discrimination.

Mr. PARKER. Mr. Chairman, I yield 10 minutes to the gentleman from Kansas [Mr. HOCH].

Mr. HOCH. Mr. Chairman and members of the committee, if I may have your attention, I shall endeavor as briefly as possible to outline the main features of this bill in this opening statement.

The purpose of the measure is three-fold. First, to unify the present patrol services of the Government upon the Canadian and Mexican borders; second, to make more effective, if possible, the enforcement of the laws of the country at those borders; and third, to add to the convenience of those lawfully crossing the borders of the country.

There are now two principal patrol services on the borders. There is the patrol service maintained by the Immigration Bureau of the Department of Labor which now has 847 patrolmen. I am not now speaking of the administrative officers of immigration, but solely of those men whose duty it is to patrol the borders in the enforcement of the immigration laws.

The immigration patrol service came into being along with the restrictive immigration laws. I believe the first act was passed in 1924. It is an excellent service. It is in uniform, and the men carry arms. It is rendering a splendid service in the enforcement of the immigration laws.

There is also the fine service maintained by the Customs Bureau of the Treasury Department. In that service at present there are 722 men, making a total in the two services of 1,569 men. The customs patrolmen are also uniformed, and they carry arms.

There are also a number of other services which do something of a patrol service along the two borders, but which can not perhaps strictly be called a patrol service in the sense considered here. The Department of Agriculture maintains a number of men, a somewhat mobile force, to move from place to place as occasion arises, for the enforcement of the quarantine laws of the country. That also may be said for the Public Health Service. But, as I have said, the two principal services are the Immigration Service and the Customs Service.

For a number of years all of those interested in this and other patrol services have felt the need of unifying the patrol service, so that we may have under one centralized authority a patrol service to patrol the borders of the country. They have all recognized that there is an overlapping and duplication of work which should be avoided, both in the interest of economy and in the interest of efficiency.

When it came to the question of where we should establish this unified service, we met at the outset what was a rather perplexing question. This measure was earnestly urged by the President of the United States in his opening message to this Congress. In that message the President suggested that this service be placed under the United States Coast Guard. There was much to commend that solution of the difficulty, but after very careful consideration the committee concluded it would be impractical and unwise to attempt to put this service under the Coast Guard.

I may briefly state the reasons which led us to that conclusion. In the first place the Coast Guard is, as you know, a military arm of the Government. It is a military service. Entrance to the Coast Guard is by enlistment. It is subject to all of the conditions which go along with military service, and we found very strong, and we think very natural opposition to establishing a military service upon the two borders.

Then we had a very practical difficulty of taking care of the men who are in the two splendid services to which I have referred.

The Immigration Service is under civil-service rules. The Customs Service is in a rather peculiar situation. Those upon the Canadian border are under civil service, but those upon the Mexican border are not under civil service. It is, however, a civil organization. If we had put this under the United States Coast Guard, it would have meant that the men who are at present in the Immigration and Customs Services, a splendid body of men, would have been compelled, if they continued in the service, to surrender their civil-service status and take enlistments in a military service. We concluded from the testimony and from interviews which we held with Members interested in that service that it would not be practicable to attempt that and it would be unfair to those men.

Then we were confronted with the great difficulty with reference to getting supervisory officials for this service if we put it under the Coast Guard. The crying need of the Coast Guard is for additional commissioned officers. Several years ago we provided by statute an increased personnel in the commissioned officers in the Coast Guard, but in spite of that we have found it difficult to get men for officers in the Coast Guard. The Coast Guard is a sea service. All of its traditions and its training center about the sea and about ships. Their only way of getting officers is through the graduates of the Coast Guard Academy in Connecticut and also by taking certain graduates of engineering courses in other colleges. But that is a slow process. The Commandant of the Coast Guard testified that at best it would be four or five years before we could expect to get men to head this service if we put it in the Coast Guard. For that and other reasons the committee abandoned the idea of putting it in the Coast Guard.

The bill proposes to create a separate service, called the United States border patrol, and we propose that it shall be within the Treasury Department and shall be assigned to the same Assistant Secretary who now has supervision over the Coast Guard. We believe that would present unity, both in theory and in administration. That Assistant Secretary, if this bill becomes law, will then have three services under his supervision, and three only. He will have the Coast Guard, which, under the present law, is charged with the duty of enforcing the law against unlawful entry upon the water boundaries of the country; he will have the border patrol service, which, under this measure, would have the like duty of enforcing the law with reference to the entrance into the country of persons and property at the land boundaries of the country; and he will also have the Customs Service. There would be a very intimate relationship between the two services I have mentioned and the Customs Service, because under the law whatever contraband goods may be seized, either by the Coast Guard or the border patrol service, must be turned over for administrative purposes to the Customs Service. Therefore we believe that this proposed set-up presents a logical and practical solution of the question as to the department in which we shall create this unified border-patrol service.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. PARKER. Mr. Chairman, I yield the gentleman 10 additional minutes.

Mr. JENKINS. Will the gentleman yield?

Mr. HOCH. Yes.

Mr. JENKINS. I am a great admirer of the border patrol, especially the immigration border patrol. I should like to ask the gentleman this question: As I understand it, enforcement of the prohibition law has been turned over to the Attorney General; the Coast Guard remains under the Treasury of the United States and the border patrol remains under the Treasury of the United States. It is very evident that both of these are going to have a lot to do with the enforcement of the prohibition law. Does this bill make any arrangement whatever for the joint authority of the Attorney General over these different agencies, or how does the gentleman expect that to work out without any conflict?

Mr. HOCH. I intended to come to the question of the duties that would be placed upon the border patrol, and I think I shall answer the question of the gentleman from Ohio. So much for the set-up of the unified border patrol service. I might say in passing that it is the purpose to increase this service under the tentative plans—and they are only tentative, made after very thorough surveys by several of the bureaus of the Government—to increase the border patrol service to about 2,500 men, which will be approximately 1,000 men in addition to the approximately 1,500 who are now in these two services. I should have said in this connection that the bill provides for the transfer, upon the order of the President, of the men in these services or any other patrol services to this border patrol service, so that the men in the Immigration Service and in the Customs Service will not lose their status, will not lose their positions, but will become a part of the unified border patrol service.

Mr. WILLIAM E. HULL. Will the gentleman yield?

Mr. HOCH. Yes.

Mr. WILLIAM E. HULL. What will be the average salary of these 2,500 men?

Mr. HOCH. The present average salary is about $2,100, of the men in the present services, and it is the idea to maintain about the same scale of salary.

Mr. BRIGHAM. Will the gentleman yield?

Mr. HOCH. Yes.

Mr. BRIGHAM. This bill does not contemplate any change in the salary schedule?

Mr. HOCH. The salaries will be fixed by the Secretary, under civil service law and rules, and there is no idea of paying these men any less money than they are receiving at present. The idea is not only to unify but to strengthen the service in every way possible.

Mr. JENKINS. The idea is to put these two organizations together but without any deterioration of the morale in any way?

Mr. HOCH. Precisely so. I have already discussed the first thing that the bill does. I said the second purpose of the measure was to make more effective, if possible, the enforcement of the laws of the country at the borders. Let me say in this connection that I have not approached this subject and the committee has not approached it simply as a prohibition measure. To be sure, it is hoped that through this more effective patrol service we will be able to more effectively prevent the smuggling of liquors into the country.

But this is not a prohibition measure at all. It has to do with the enforcement of all the laws of the country, with respect to the unlawful entry of persons or property into the United States, the better enforcement of the laws against the illegal entry of aliens, against the smuggling of merchandise of any sort in violation of the customs laws of the country, or any violation of the law against the bringing in of narcotics, as well as the prohibition law.

Mr. O'CONNOR of New York. Will the gentleman yield?

Mr. HOCH. I yield.

Mr. O'CONNOR of New York. Is it not a fact that in the hearings, as I quoted in some remarks I made the other day, the immigration authorities say they are getting along all right as it is, and that the customs authorities have no complaint as to their ability to enforce their laws?

Mr. HOCH. I will say that both the Customs Service and the Immigration Service indorse the measure in very strong terms. Of course, they stand up for their respective services, and so do I; but Mr. White, the present Assistant Secretary of Labor, having in charge the Immigration Service, through whose individual efforts very largely the present splendid immigration patrol service was created, said that he has favored from the first the unification of these border services, and he is one of the strongest advocates of putting together these services into a unified border patrol service.

Mr. O'CONNOR of New York. Is it not a fact they are somewhat motivated by the fact they have been proceeding contrary to law. There has never been any legal authorization for any of these patrols they have had, and they would like to have them finally authorized by law.

Mr. HOCH. I do not concede they have been proceeding contrary to law.

Mr. O'CONNOR of New York. There is certainly no legal authorization for any appropriation we have been making for these border patrols.

Mr. HOCH. I disagree absolutely as to that; but if that is true and there is any doubt about the law with reference to the coming in unlawfully of persons or property, I certainly hope the gentleman from New York will cooperate with us in fixing that situation.

Mr. O'CONNOR of New York. I certainly will, but what I say is they have never had any authority heretofore to establish such a border patrol.

Mr. HOCH. I do not agree with that. The immigration border patrol service was created by statute and is a statutory organization. It was first provided, I believe, in an appropriation bill, but it was a legislative provision nevertheless.

Mr. O'CONNOR of Louisiana. Will the gentleman yield?

Mr. HOCH. I yield.

Mr. O'CONNOR of Louisiana. There is considerable difference of opinion among some of the Members on the Democratic side as to whether the American Federation of Labor has ever indorsed this bill. While I do not consider their attitude all-determining, still it is a factor with some of us which might have a bearing upon our vote on the bill as their view is of some importance. Would the gentleman give us some information about that?

Mr. HOCH. I will be very pleased to state that in so far as I know——

Mr. O'CONNOR of New York. Will the gentleman yield?

Mr. HOCH. Let me first answer the question of the gentleman from Louisiana.

As I stated, the bill, as first proposed, provided that this service should be established in the Coast Guard, and this aroused at once, and naturally so, very intense opposition on the part of the men in the Immigration and Customs Services and their friends, and upon that bill there appeared a representative of the labor organizations at the close of one day's hearing, who entered an objection to the bill. I asked him if he would not come back that we might have a chance to ask him questions that we might know precisely the nature of his objection, but he did not return at the next meeting. I am not in any sense criticizing his not returning, but my belief is that the principal reason which led to the opposition was the fear, and the natural one, that these men now in the Immigration and Customs Services would lose their positions if we adopted the bill in its original form.

Mr. O'CONNOR of New York. Will the gentleman yield?

Mr. HOCH. I yield.

Mr. O'CONNOR of New York. Is it not the fact that in the hearings, as inserted in my remarks of last Thursday, Mr. Roberts, the representative of the American Federation of Labor, said——

Mr. HOCH. I hope the gentleman will not take too much of my time. I have already stated what he said.

Mr. O'CONNOR of New York. He said:

> We are opposed to this unified border patrol because we fear it has only one purpose, to enforce one law—

And so forth. He unqualifiedly and unequivocally was opposed to the law. There was no suggestion about the Coast Guard or about a certain number of men employed.

Mr. HOCH. I happen to know where much, at least, of the opposition came from at that time, and as far as I could learn it was based largely on the proposition that it was going into the Coast Guard. I do know that the Immigration Service itself is very strong for this unification.

Mr. LAGUARDIA. I think the gentleman misunderstands the question of the gentleman from Louisiana, as well as the statement just made by the gentleman from New York [Mr. O'CONNOR]. The question was whether the American Federation of Labor is opposed to it.

Mr. HOCH. That is what I was speaking about. I have never heard, and so far as I know the committee has never heard any expression from the labor organizations since the bill was changed entirely in the way I have indicated.

Mr. WILLIAM E. HULL. Will the gentleman yield?

Mr. HOCH. I yield.

The CHAIRMAN. The time of the gentleman from Kansas has again expired.

Mr. PARKER. Mr. Chairman, I yield the gentleman five additional minutes.

Mr. WILLIAM E. HULL. Is there anything in the proposed law that will prevent these men from searching every automobile that comes across the border? There has been a lot of trouble in that respect, and if you are going to put on 2,500 men, naturally that is going to cause everybody that much more inconvenience, and I want to know what the regulations are going to be.

Mr. HOCH. I will answer the gentleman. We do not in this law give any additional power of search. We are not changing the law in that respect.

Mr. WILLIAM E. HULL. But you are adding a thousand more men.

Mr. HOCH. Yes; it is expected that there will be added about a thousand more men.

Mr. WILLIAM E. HULL. Under the present law people going to Canada legitimately in a car do not like to be searched every time they go across the border.

Mr. HOCH. I am hoping to have time to get to the discussion of the present law with reference to crossing the border, and the changes we propose in it.

Mr. OLIVER of Alabama. Under the bill they will have the same authority that they have now.

Mr. HOCH. Precisely so. We do not change the law.

Mr. JOHNSON of Washington. There is no proposition in this bill that weakens the present law.

Mr. HOCH. Not at all; but if there is any question about it, I would not oppose an amendment to make it plain.

Now, what is proposed? It is proposed to make it unlawful to cross the border except at points of entry designated by the President. At first blush that might sound like a drastic proposal, but in order to understand that I will state what the present law is and what the present situation is.

Under the present law the only persons who do not have to report—I am speaking of American citizens—the only ones who do not have to report at a customhouse when they cross the border are persons on foot bringing no merchandise of any sort or persons in small boats of less than 5 tons, who come in under an exception in the tariff act.

Let me state it in another way: Anyone who comes across the border bringing any merchandise of any sort, whether he comes on foot, in a boat, in a vehicle, must report at a customs port of entry.

Second. Anyone who comes across in an automobile or any other land vehicle, even though he brings no merchandise, must report at a port of entry or he is violating the law.

Anyone who comes in a boat, with one exception which I have not time to discuss in the two minutes remaining—but which will be taken care of under an amendment to be offered—aside from that exception, anyone coming in a boat must under the present law report to the customs port of entry.

Now, what is the situation? Here are the customs ports of entry in many instances many miles apart, and some of them inland away from the border. In some instances they are 5 miles inland, sometimes 5, 10, and 15 miles inland, and in one case 50 miles, I believe.

Under the present law if you come across the border in an automobile, even though you bring no merchandise, even though you cross 25 miles from a customs port, you are compelled to go to a customs port of entry and report. That, of course, adds greatly to the inconvenience of people lawfully crossing the border. It is a common experience for American citizens to be stopped 10 or 15 miles in the country by patrolmen, even when they have not crossed the border. While the purpose of this measure is to stop the man who is unlawfully crossing the border, we will in the main add to the convenience of the people who are lawfully crossing the border.

Now, Mr. Chairman, I do not wish to consume any more time this evening. Other phases will be fully covered later in the discussion.

Mr. PARKER. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. CRAMTON, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having under consideration the bill H. R. 11204, had come to no resolution thereon.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. CRAIL, for the remainder of the session, on account of illness in his family.

LETTER FROM A GOLD-STAR MOTHER

Mr. MOREHEAD. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting therein a letter from one of the gold-star mothers, written after her return from France.

The SPEAKER. The gentleman from Nebraska asks unanimous consent to extend his remarks in the RECORD by inserting therein a letter from a gold-star mother. Is there objection?

There was no objection.

Mr. MOREHEAD. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following letter from one of the gold-star mothers, written after return from France:

DES MOINES, IOWA, *June 25, 1930.*

DEAR FRIEND MR. MOREHEAD: I have waited until my return trip from overseas to write to thank you for the book you sent to me.

I do enjoy having it so much and have checked up on each of the 233 Gold Star Mothers and widows who made the trip with me.

It was such a wonderful trip. I haven't words to express my appreciation of it or to tell how much it has meant to me.

I have always ever since my son's death over there felt a great longing to go and to know what it was like, and I am now firmly convinced that it was the proper thing to do to leave them there, for those are fields of honor and fields of glory. Although my grief has been terrible, I feel now a sweet peacefulness that nothing but the beckoning arms of those beautiful white crosses could ever bring to me. I had two splendid sons in the war, but have lost them both—Clarence over there; George came home afflicted and died August 27, 1927, and is buried at Peru. So one is here and one there. I went from one grave here to the one over there, so you can perhaps know how cruel war seems to me, and it does seem as if those white crosses plead for peace.

Mr. MOREHEAD, there is another thing I will speak of now. My sons neither one had insurance; Clarence enlisted June 21 and sailed August 5, 1917, and for some reason his insurance was not attended to. George enlisted in April, 1917, served until May, 1919; he had insurance but dropped it, and when he tried to get back, because of his physical condition could not be reinstated.

Is there any possible chance that the Government will pay insurance for boys who died in the war even if they did not take insurance out.

I am a widow and I need it so badly. Twenty dollars per month is all the income I have, and it is a big help but not much in comparison to what I gave.

I am a daughter of H. B. Jewell that used to live in Dundy County, Nebr. My sister Lillie says they used to know you there.

Again thanking you for the book and whatever assistance you might be able to give me I will close.

Yours very respectfully,

MRS. MARY E. MILNES CANON,
Gold Star Mother.

REGIONAL ADJUSTMENTS IN AGRICULTURAL PRODUCTION

Mr. CHRISTGAU. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therewith a bill which I am introducing on agricultural legislation.

The SPEAKER. Is there objection?

There was no objection.

Mr. CHRISTGAU. Mr. Speaker and Members of the House, I take this opportunity to call to the attention of the membership of the House and others interested in the difficult problem

United States called to the colors more than 5,000,000 men and women, and bearing in mind the enormous sacrifices that many of those 5,000,000 made for their country, the amount which the United States is spending per veteran is surprisingly small—less than $100 per veteran per year. There are approximately 27,500 veterans in Government hospitals at Government expense. Most of them are there for treatment of disabilities incurred in the service, although whenever there is a vacant bed in a Government hospital, and all service-connected cases needing hospital treatment are taken care of, other cases are taken in whether the veterans can prove service connection of their disabilities or not.

It should be a matter of interest not only to us who are World War veterans but to the country at large that we in Congress who have the responsibility for legislating for the great army of ex-service men and women in the United States are striving every day and every hour to find the means to express more adequately the gratitude of our Nation to those heroic men and women who subjected themselves to all the evils and horrors of war in order that the ideals and honor of the United States of America might be protected in 1917 and 1918. When the bands were playing and patriotic fervor ran high 12 years ago we know that the soldiers were promised that nothing was too good for them. So long as we have the means to keep the Nation's promise we will not hesitate to do so.

The Veterans' Bureau consolidated the administration of the war risk insurance act with vocational rehabilitation, as well as the activities above mentioned. Vocational rehabilitation, you will recall, was the rather long name for what was intended to be a free school for disabled ex-service men. Those veterans who were accepted as eligible were sent to the best professional schools, colleges, and trade schools in the country, to teach disabled veterans how to be self-supporting despite the wounds and handicaps they may have received in the war. The Government footed the bill, as was proper and humane for it to do. Thousands of ex-service men were fitted for useful careers in this way. This kind of veterans' relief has been brought to a close.

Most men who have families or other dependents to support carry a certain amount of life insurance. As a matter of conscience they would not do without it. Naturally, when the war broke up the ordinary course of events, a great question arose as to what to do with life insurance. No commercial company could afford to take the risk of insuring the life of a man going into the trenches, so the Government went into the insurance business for this specific purpose. It is true that on September 2, 1914, although the United States was not then in the war, the seas had become so dangerous that the United States Government passed an act establishing a Bureau of War Risk Insurance in the Treasury Department for the purpose of insuring American vessels and cargoes against the risks of war. By an act approved June 12, 1917, this bureau was expanded to insure the "master, officers, and crew" of American vessels against loss of life or personal injury from war risks as well as for compensation during detention by an enemy of the United States following capture. By October of the same year, 1917, an act had been passed extending the benefits of Government insurance to every person in the military or naval forces of the United States who would agree to pay the premiums for such insurance. This was term insurance, intended merely to carry the soldiers and sailors over the period of emergency. After the war, by a series of acts, Congress made it possible for all who had carried insurance during the war to convert their insurance into regular insurance policies similar to those issued by commercial companies, but at a low premium rate. At the close of the fiscal year 1929 there were in force 649,837 United States Government life-insurance policies, amounting to $3,058,577,039 insurance.

The Veterans' Bureau also has jurisdiction over another kind of veterans' insurance policy, called an adjusted-service certificate. This was awarded by an act of Congress passed over a presidential veto on May 19, 1924. The veteran is not required to pay a premium to keep this insurance policy in force. It has a fixed face value, the amount of it depending upon the length of time the veteran was in the service, which will be paid 20 years from the date the certificate was issued, or upon the death of the veteran if he dies prior to that time. This is what is sometimes referred to as the "bonus" or "adjusted compensation." The total number of these certificates issued to June 30, 1929 totaled 3,650,093, valued at $3,475,738,527, which means that the average face value of adjusted-service certificates is slightly less than $1,000 each. About 70,000 death claims have been paid on these certificates, which means that already the Government has paid $70,000,000 to the dependents of veterans who held these certificates. For the reason that this kind of certificate is based on the theory that it is adjusted compensation for the veterans themselves, and considering that many of the veterans are in such dire financial straits that there will never be a time when as a whole they will be in greater need of this money than they are now and have been during the recent business depression, it was hoped by many that these certificates, which are already fixed obligations against the Government, could be paid in cash at the present time rather than to require the veterans to wait until 1945 for payment. It was pointed out that at that late date thousands of veterans will have passed beyond the reach of any help, while if they were paid now they would receive the benefits themselves which were originally intended for them. I brought this proposition up on the floor of the House in the form of an amendment to another bill, on April 28 of this year, but the proposition was defeated on a point of order. There has been no other way of getting the matter to a vote in the House. Congress did, however, provide for loans to veterans by the Veterans' Bureau on these certificates, but this plan has the disadvantage of charging the veteran interest for the use of his own money; that is, if you accept the theory that these certificates represent "compensation" for service rendered. In many cases it has been found that the veterans were unable to pay off the loans and the accumulating interest is rapidly wiping out the principal, so that in the end those veterans who have borrowed will realize only a small proportion of the face value of their adjusted-service certificates.

These adjusted-service certificates were sometimes referred to as the "bonus," but the real bonus was a $60 cash gift which was paid to every man who had an honorable discharge at a certain date shortly after the war.

Considering all the direct monetary benefits to veterans and their dependents since the armistice the total appropriations by Congress have amounted to more than $8,000,000,000.

The indirect benefits, such as preferences in the civil service laws, immigration laws, census act, homestead laws, naturalization laws, are all important and exceedingly helpful to veterans in the unspectacular business of earning a livelihood. It is difficult to estimate the value of these preferences, but we know that hundreds of thousands of veterans and wives of veterans have been aided in a material way through such preferences. One which I happen to be most familiar with, due to my position as ranking member of the House Census Committee, is that provision which we wrote into the census act giving preference to veterans in the employment of census enumerators and supervisors by the Government for the taking of the census of the population and industries which began on April 1 of the present year.

Lack of time forbids that I say more on this subject at this time. But I do wish to say that I am firmly convinced that however generous to the veterans the Congress may be, the American people are as one with me in saying, "Let us do that, and more if possible—the veterans richly deserve the utmost that we can give them in gratitude."

UNITED STATES BORDER PATROL

Mr. PARKER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 11204) to regulate the entry of persons into the United States, to establish a border patrol in the Coast Guard, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 11204, with Mr. CRAMTON in the chair.

The CHAIRMAN. Under the rule there are two hours of general debate, one-half controlled by the gentleman from New York [Mr. PARKER] and one-half by the ranking minority member of the committee [Mr. RAYBURN].

Mr. RAYBURN. Mr. Chairman, I ask that the gentleman from Missouri [Mr. MILLIGAN], who served as a member of the subcommittee, control the time on this side.

The CHAIRMAN. Without objection, the gentleman from Missouri [Mr. MILLIGAN] will control the time for the minority.

There was no objection.

The Clerk read the title of the bill.

Mr. MILLIGAN. Mr. Chairman, I yield five minutes to the gentleman from New York [Mr. BOYLAN].

Mr. BOYLAN. Mr. Chairman, ladies, and gentlemen of the committee, by the passage of this bill you are setting up a new crime. I have spoken heretofore about the fact we are approximately now 7 to 10 years behind in our prison construction. Although this Congress in the second deficiency bill has appropriated some seven-odd million dollars for new buildings, yet even with that construction we will not be able to take care of the present overcrowded conditions in our Federal penitentiaries and jails. Yet we go on merrily creating new crimes to put people in jail.

Here we are sitting in the torrid heat of Washington. We ought to be at home about our business and about our districts, but we are sitting here in order that we may take time to pass a proper veterans' bill. The President and the great Secretary of the Treasury have said that the bill we passed would take too much money out of the Treasury, and yet here in this very bill you sign a blank check and you give it to the Secretary of the Treasury and say, "Here, fill in the amount; we do not care what it costs."

By the questions and answers here yesterday during the discussion of this bill it was found that the appropriation for salaries alone would amount to approximately $2,100,000, yet we can not pass a proper bill to compensate veterans of the World War. We are sitting here in the sizzling heat of the city of Washington waiting to do something that will be acceptable to the august highness, the President of the United States.

Mr. LINTHICUM. Will the gentleman yield for a question?

Mr. BOYLAN. Yes.

Mr. LINTHICUM. Is that $2,000,000 plus, in addition to the salaries already paid the men on the border?

Mr. BOYLAN. Oh, yes; that is the amount for the additional salaries. There are to be 1,000 additional men at an average salary of $2,100 a piece, which amounts to $2,100,000.

The question was asked yesterday, "Will they have the right of search." Why, of course, they will have the right to search. Look at the bill, page 8. Gentlemen, you will see by its provisions if you have any merchandise in your car or in your boat, they will search them to see what you have in order that they may arrest you and take you to one of these new ports of entry.

Mr. O'CONNELL. Will the gentleman yield?

Mr. BOYLAN. I yield.

Mr. O'CONNELL. But our friend from Kansas yesterday said that they would stop all that.

Mr. BOYLAN. Stop nothing. Please read the bill. Page 8, lines 1 to 8, inclusive, states as follows:

> Any officer or member of the United States border patrol may arrest any person unlawfully entering the United States; may seize any merchandise unlawfully transported into the United States or in the possession of any person unlawfully entering the United States, or any vessel, vehicle, or aircraft, in which such unlawful entry is made; and shall promptly deliver any such persons, merchandise, vessel, vehicle, or aircraft into the custody of the appropriate officer.

Mr. LINTHICUM. Will the gentleman yield?

Mr. BOYLAN. Yes.

Mr. LINTHICUM. What effect does this bill have on the little boat going from shore to shore with picnic parties?

Mr. BOYLAN. Yesterday there came to my mind a vision of the author of the bill, recently inducted into that delightful state that was characterized by a former distinguished President of the United States as being "one grand, sweet song." The picture came to me that this bill had passed and the gentleman was passing along the St. Lawrence among those beautiful islands that dot that river, and accidentally he had touched upon our shore.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. MILLIGAN. I yield to the gentleman five minutes more.

Mr. BOYLAN. As I said, they were in the boat, floating along in a delightful state of bliss down the river, and through inadvertence touched the American side, and perhaps they had some wedding gifts and presents in the boat. Immediately our colleague would have committed a crime in transporting merchandise into the United States without going through a regular port of entry.

Mr. COCHRAN of Missouri. Will the gentleman yield?

Mr. BOYLAN. I yield.

Mr. COCHRAN of Missouri. Does the gentleman mean to say that if people from my district, for instance, tourists, coming to Washington, and going into Canada will be subjected to the provisions of this bill, to search by the border patrol?

Mr. BOYLAN. Absolutely.

Mr. COCHRAN of Missouri. Wives, children, and all their baggage open to search?

Mr. BOYLAN. Yes; and they will confiscate your automobile, and in addition impose a fine of $100 for violating the law if you do not enter or leave through a regular port of entry.

Now, gentlemen, in addition to that, 1,000 additional officers are being created and 212 additional ports of entry are authorized under the provisions of this bill.

What is to be the cost of all these additional ports of entry? We do not know. For that reason we are going to sign a blank check for the Secretary of the Treasury to fill in. The Lord alone knows what the ultimate cost will amount to.

I say that this bill is a masquerade—it comes here with a set of whiskers on it, long, flowing whiskers, and the name of the whiskers is "narcotic control." In addition to the whiskers it has a slouch hat, and the slouch hat of the bill is named "immigration restriction." If we pull the whiskers off and take off the slouch hat we find we have our old friend prohibition. [Laughter.] There he is. [Laughter.]

So I say if you can not do a thing directly do it indirectly, put on a slouch hat and whiskers and maybe the boys will not know you. [Laughter.]

Oh, this prohibition enforcement is a wonderful game!

Mr. PALMER. Will the gentleman yield?

Mr. BOYLAN. I yield.

Mr. PALMER. The object of this bill is to more securely protect the border against the invasion of unlawful entry of foreigners.

Mr. BOYLAN. That is one object.

Mr. PALMER. You are not opposed to that?

Mr. BOYLAN. Oh, no, indeed.

Mr. PALMER. Does not the gentleman think that the invasion of foreigners affects unemployment?

Mr. BOYLAN. Yes; undoubtedly; it might affect the gentleman and it might affect me.

Now, I will say that in the passage of this bill you men from the border—and there is hardly a man in the House from the border States but has had practical experience in his own State of law-abiding, respectable citizens of his State being shot on the public highway, mistaken for rum runners, or smugglers, or something of that kind.

What do you do in this bill? You add a thousand more men. A thousand men! Think of it. Every one of them armed with a blackjack and a revolver and a rifle.

Mr. Chairman, the "mere accidents," so-called, that have already occurred, will be as nothing to the flood of further "accidents," so called, that will sweep the country when you put out these thousand additional men, all armed with revolvers, blackjacks, and rifles, to harass and shoot law-abiding citizens of these United States. [Applause.]

Mr. MILLIGAN. Mr. Chairman, I yield five minutes to the gentleman from New York [Mr. MEAD].

Mr. MEAD. Mr. Chairman, I shall take up the discussion of this measure where my colleagues who are opposed to it left off. They have explained that it is a prohibition measure, prompted by the Anti-Saloon League, and that it has for its purpose the creating of an additional dry army of a thousand men to patrol our international borders. I assume from the history of the legislation that that is correct, but as a Member representing one of the districts situated along the northern international border I have a particular objection which I shall explain in the brief time allotted to me in this debate. We have been witness in the last few years to the deplorable tendency of the Federal Government engaged as it has been in building up a strong military organization along the boundary. We are aware of the shootings, the murders, and crimes committed by Federal agents in the name of the law, and we have appealed to the National Government on numerous occasions for relief and redress of these wrongs; we have urged the Federal authorities to intervene and in the name of humanity to stop the shooting of decent, honest, law-abiding citizens, and at the same time to exercise every precaution before killing a person who may even be actually violating the Volstead law. This is the answer of the Federal Government to that appeal—another dry army of a thousand more men, an initial appropriation of $4,000,000, and God only knows what the future will bring. Only a few years ago in the city of Buffalo we dedicated what is known as the Peace Bridge, celebrating 100 years of peace between the two great nations, Canada and the United States. On that occasion the Prince of Wales, the Prime Minister of England, the Prime Minister of Canada, the Vice President of the United States, and the Governor of the State of New York were present.

In their addresses to the immense throng there gathered on that occasion we heard lauded the splendid example of Canada and the United States as an example that all the civilized nations of the world might very well emulate. They said, and truthfully, that along that 3,000 miles of border separating these two friendly countries there were no guns, no armed guards, no forts or fortifications, no war vessels—truly an ideal condition. But, my friends, since the dedication of that Peace Bridge and the advent of present enforcement methods a different situation exists along our border; we now have guns, armed guards, war vessels, and other evidences of bitterness and ill feeling. Our citizens have been shot down in cold blood, and human life is no longer safe along our heretofore peaceful borders. I only need to recall the brutal murder of Jacob Hansen, of Niagara, the unwarranted killing of Anderson and Downey at Buffalo, and the shooting at small pleasure craft on the Niagara River, including the vessel operated by Mr. Raichle, who is Colonel Donovan's law partner. [Applause.] I only need to cite the complaint made by the Canadian Government to the State Department of the United States that shooting on the part of American patrol officers into Canada must cease to prove to the Members of the House that the situation is most serious. This bill will accentuate the evil. It is, of course, in keeping with the fanaticism of the times, in keeping with the dry policy of the present Federal administration. A policy founded upon the theory that our people are filled with vices that must be curbed and controlled and regulated by law. Jefferson was right when he said the Nation of few laws, the Nation whose laws are based on the virtues of its citizenship, to be the happiest and the best governed on earth. [Applause.]

It has been the proud boast of countless generations of statesmen in Canada and the United States that for nearly 140 years peace has reigned along the 3,000 miles of border that separates these two friendly countries. During all this time, in friendly relation and happy concord, the citizens of both countries have carried on their business with mutual advantage and success. Why should we now violate the traditions that animated our forebears, and as a result of prohibition, erect an armed barrier of a military nature along this otherwise peaceful frontier?

Surely we can not expect this new idea to be received with a friendly spirit by our northern neighbors.

In response to the request of the United States the Dominion Parliament some time ago enacted a law forbidding their nationals to ship contraband into the United States. We should appreciate this cooperation as an evidence of good will. From information given by the proponents of this bill, we already have on the Canadian border and on the Mexican frontier more than fifteen hundred men, uniformed and armed. Now it is purposed in this legislation to increase this number by another thousand, who will similarly be uniformed and armed. This is to my way of thinking very poor appreciation for the cooperation that our neighbors to the north have shown in the legislation that has been passed in the Ottawa Parliament. Representing as I do the great city of Buffalo, bordering on Canada, and with my knowledge of the splendid citizenry across the border, I am impelled to resist legislation of this kind.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. MILLIGAN. Mr. Chairman, I yield five minutes to the gentleman from New York [Mr. DICKSTEIN].

Mr. DICKSTEIN. Mr. Chairman, ladies and gentlemen of the committee, I think this bill was not scientifically drawn or prepared. I do not believe the bill was given any thought or consideration, and no attempt was paid to what the effect of the language in the bill would be. Following up subdivision (b) of section 3 o. the bill, we find that any person who violates the provisions of that section shall be guilty of a misdemeanor and subject to a penalty of $100. In addition thereto, a lien is placed upon his property. In other words, this defendant will be placed twice in jeopardy.

Coming right down to the sum and substance of it, I venture to say that the committeee has given very little thought to the whole bill, and I am prepared to convince the gentlemen, if they want to be convinced, that they are going in the wrong direction. Not only that, but I am prepared to criticize the bill from the majority report. I hope the committee has given some consideration to this, as they have to other legislation, but they say in the report that we will need about 2,495 men to patrol about 6,000 miles of border; 3,000 miles on the Canadian side and 3,000 miles on the Mexican side. It is contended that 2,495 men will do this great job. Did these gentlemen ever take a pencil and paper and go back to an old public-school arithmetic and endeavor to find out what number of men it would really take? It would take 15,000 men, placing 10 men to each 25 miles. In other words, if you put 10 men to patrol 25 miles, it will take 15,000 to 16,000 men, one for each 2 miles, to patrol the borders.

Mr. O'CONNELL. Well, at the rate we are going we will get there eventually.

Mr. DICKSTEIN. They will have to do it if they want this so-called border patrol, because the fact of the matter is that every citizen, whether child or adult, who happens to be with an automobile three or four hundred miles away from the border line will have to come to the destination designated by the President of the United States, and if he does not, that citizen will be a criminal and subjected to all the criminal laws.

Mr. JOHNSON of Washington. Mr. Chairman, will the gentleman yield there?

Mr. DICKSTEIN. Yes.

Mr. JOHNSON of Washington. I think it is but fairness for the gentleman to say that there are great stretches of this border which can not be passed by people in vehicles, with the Rocky Mountains on the north side and desert on the south side.

Mr. DICKSTEIN. The Committee on Immigration had this bill under consideration for some time. It had some constructive ideas, but there is not a single constructive plan connected with this particular bill. I think the committee knew too much about the situation.

You say that 2,495 men shall protect the border. Is there a man on the committee who can point out to me how 2,495 men can patrol 6,000 miles of border? It is a farce and a joke to say, "Gentlemen, you do not want to give relief to the veterans of the World War; you do not want to help the farmer, unemployment, uniting of families of citizens of the United States; what you want is to enforce prohibition, which is humanly impossible." [Applause.]

Now, on the other hand, in addition thereto, you are placing two penalties on the violator of the law. In addition to that you are placing a lien upon his chattel. And certainly you will have to have a lot of trained Indians down there to prevent anybody going by without stopping, right or wrong.

Experience has taught us a bitter lesson in this prohibition craze. Last week my friend from Wisconsin [Mr. SCHAFER] said that he preferred that the American farmer should have the privilege of being a bootlegger instead of the foreigner having that privilege. I am inclined to agree with him if that is going to help the farmer.

If you want to patrol your borders you have to create 15,000 to 20,000 jobs along the borders, and then you will only have one or one and a half men to a mile.

This country presently by appropriations passed by Congress has a great burden to carry financially. Prohibition has received every benefit within the gift of the people of the country by appropriating millions and millions of dollars to enforce the eighteenth amendment. Up to the present time and after 10 years of constant experience the jails are filled with violators of the prohibition law, disrespect for law; young boys and girls in the respective schools and elsewhere are using liquor freely, with thousands of people dying from poisoned liquor and millions of dollars' worth of property being destroyed. How long can the taxpayer support a proposition which by instinct and by nature could not be enforced? It is needless for me to tell you to read the hearings before the Judiciary Committee, and you will be convinced that prohibition is a failure, and to give you the latest on that question you will read in the New York Times of July 1 a statement made by Major Campbell, in charge of the New York office, recommending a repeal of the eighteenth amendment.

Mr. HOCH. Mr. Chairman, I yield to the gentleman from Michigan [Mr. CLANCY] 10 minutes.

Mr. MILLIGAN. Mr. Chairman, I also yield to the gentleman from Michigan 10 minutes.

The CHAIRMAN. The gentleman from Michigan is recognized for 20 minutes.

Mr. CLANCY. Mr. Chairman and colleagues, this is a tremendously important bill. It vitally affects 50,000,000 passages and liberty of American citizens to cross the borders, Mexican and Canadian. The statistics come from the Department of Labor and from our former colleague, Commissioner General of Immigration Harry Hull. That statement does not necessarily mean that there are 50,000,000 different persons crossing the border each year, but 50,000,000 passengers. Some of those people pass back and forth each day, each week, each month, some once a year.

I do not object to the unification of the border patrol to include the present customs border patrol and the immigration border patrol. But I do object to certain sections of the bill. It is true, although gentlemen may try to make you believe to the contrary, that many customs men and many immigration men are lukewarm, if not hostile, to the amalgamation of the services.

You are students of government, and you know how often it has been tried in the history of local government to amalgamate the policemen and firemen in towns and cities. Firemen between fires have leisure. Why not have them then perform police functions? Why not have police help fight fires? That was the argument, but the union of the two forces failed because the functions are so different.

ORGANIZED LABOR FLATLY OPPOSES THE BILL

Yesterday the gentleman from Kansas [Mr. HOCH], who has the bill in charge, sought to minimize the opposition of the American Federation of Labor to this bill.

When I was trying to get further consideration of this bill in the Rules Committee some gentlemen of standing to whom I went turned a deaf ear to me because they said "only bootleggers are opposed to this bill," whereas thousands of excellent citizens and the American Federation of Labor were registered in the hearing as opposed.

I also inserted in the RECORD some days ago a list of public officials and prominent citizens opposed to the bill. None are "bootleggers."

The gentleman, Mr. HOCH, rather adroitly tried yesterday to minimize the opposition of the American Federation of Labor and its legislative representative, W. B. Roberts, who appeared at the hearings. Mr. HOCH's statement confused some members. Fortunately we did not decide the question last night, and now Members can not vote under a false impression.

I got in touch with Mr. Roberts and I have now a letter, not from Mr. Roberts himself, for he is already strongly registered, but from William Green, president of the American Federation of Labor, in which, after reviewing the testimony of Mr. Roberts, he said, "After careful consideration which the American Federation of Labor gave the bill, we feel that the proposed bill for unified border patrol will not give the relief we desire"; and he again registered opposition to the bill. He quotes what Mr. Roberts says about it being a prohibition measure, and then he says:

> The American Federation of Labor has for many years urged restriction of immigration. At the present time, because of the number of unemployed, it is absolutely necessary that Congress should take some action that would reduce the number of immigrants coming into the country, especially from Mexico.
>
> We feel, however, that the proposed bill for a unified border patrol will not give the relief we desire.

Herewith I insert in full the letter from Mr. Green to me:

> AMERICAN FEDERATION OF LABOR,
> *Washington, D. C., June 30, 1930.*
>
> Hon. ROBERT H. CLANCY,
> *House Office Building, Washington, D. C.*
>
> DEAR SIR: From the statement you made over the telephone I understand that there is some doubt as to the attitude of the American Federation of Labor toward a unified border patrol.
>
> The following statement made by Mr. Roberts, legislative representative of the American Federation of Labor, before the Interstate Commerce Committee is the attitude of the American Federation of Labor:
>
> "We are opposed to this unified border patrol, because we fear it has only one purpose—to enforce one law. We have fought for years to get a border patrol to protect us from an influx of immigration without avail, but now we consider that the whole purpose of this bill is just merely to have another border patrol to enforce the prohibition act, and I think the immigration act is just as important, if not more so."
>
> The American Federation of Labor has for many years urged restriction of immigration. At the present time, because of the number of unemployed, it is absolutely necessary that Congress should take some action that would reduce the number of immigrants coming into the country, especially from Mexico.
>
> We feel, however, that the proposed bill for a unified border patrol will not give the relief we desire.
>
> Yours respectfully,
>
> WM. GREEN,
> *President American Federation of Labor.*

Thus organized labor renews its opposition to the bill as a prohibition measure.

PLAINLY A PROHIBITION MEASURE

That should be a complete answer to all the gentlemen who are trying to make you believe that this is an immigration measure. Labor is very hostile to smuggled aliens. This is an Anti-Saloon League measure.

Hon. Ogden Mills, Undersecretary of the Treasury, who sponsored the bill, said in the press last year that they were going to close the Canadian border to liquor. But since then the sensational annual convention of the Anti-Saloon League was held in Detroit, where the general superintendent, Dr. F. Scott McBride, said that "the Anti-Saloon League was born of God and was being led by God." Then he demanded $50,000,000 to take care of Congress and the State legislatures in the next few years.

He really asked a lobbying and "political corruption" fund. Then we had hearings in this House on my bill to repeal the eighteenth amendment and a few modification bills. Then there was a Literary Digest poll.

A tremendous wave of opposition to prohibition thereupon demonstrated itself in this country. Now the bill's advocates are dodging and squirming and trying to say it is not a prohibition measure. But it is, and a typical one, terribly cruel and unjust.

DOCTOR HOLSAPLE ASKS MY VOTE

I have in my hand a telegram from the superintendent of the Anti-Saloon League of Michigan, Dr. R. N. Holsaple. In our State he is a notorious man. He pleaded for the release by parole of his brother-in-law who was twice confined in a prison as a bootlegger, and yet urged that an old woman with several children be given life in prison for four sales of gin. She actually was sent to prison for life. He said they unanimously voted indorsement of Hudson border patrol bill and urged my support of the same by influence and vote, even when in its bad shape and not amended, as it will be. Doctor Holsaple was accused by the dry Governor of Michigan and 15 members of the State legislature of falsifying about their records.

Mr. O'CONNOR of New York. He sent that to you?

Mr. CLANCY. To all the members of the Michigan delegation, I believe. A Senator and another member told me they received a similar telegram.

Mr. O'CONNOR of New York. It seems that is a waste of money.

Mr. CLANCY. That is a waste of money to send such a telegram to me. But they have wasted thousands of dollars in the past few years and will continue to do so. Then they have tried to drag in the President as desiring this bill exactly as it is now.

Mr. SCHAFER of Wisconsin. Will the gentleman yield?

Mr. CLANCY. I regret I must refuse to yield.

DO NOT BLAME PRESIDENT HOOVER

What did the President say about the unification of the three border patrols? Here it is in his message to Congress, December 3, 1929:

> I would add to these recommendations the desirability of reorganizing the various services engaged in the prevention of smuggling into one border patrol under the Coast Guard. Further recommendations upon the subject as a whole will be developed after further examination by the Law Enforcement Commission, but it is not to be expected that any criminal law will ever be fully enforced so long as criminals exist.

That is all; just that and no more from the President.

The reference to criminals is strange, because the President did not recommend nor contemplate making criminals of innocents. This bill makes criminals out of innocent people living on the borders who have had free passage for 116 years on the Canadian front and since 1848 on the Mexican border. The bill works sin and crime, and also it gives power to the Department of the Treasury—power by regulations—to get them out as far as possible from under the cloud of sin and crime in which they have been enveloped by the bill. We will prove the latter is not possible, and the taint must remain on millions if the bill is not changed.

Now, the President seems to have been persuaded to recommend the Coast Guard as a border patrol, as the Hudson bill originally demanded. The House Interstate and Foreign Commerce Committee considered this. What did they do then? The gentleman from Kansas [Mr. HOCH] admitted yesterday that they could not violate the treaty with Canada by putting a strictly military force on the Canadian border.

We have encountered opposition time and again to propositions to fortify the Canadian border or to unduly strengthen our armed or military forces there.

Placing of these two patrols as Coast Guard units meant the establishment of numerous barracks on the borders, meant drills, and it meant an enlisted military force and other military activities. All that violated our relations with Canada and Mexico.

So the Hudson bill for the Coast Guard patrol was killed by the two House committees' objections. The joining of the agriculture border patrol feature was also rejected. Do not blame everything bad on the President.

The President has enough burdens without attributing the "new crime" idea and the "closed borders" idea to him, as now included in this bill.

He probably desires unification of the two border patrols, but he surely does not want any bad features. Perfect this bill now. Amendments will be suggested striking out sections of this bill which are harmful. One is aimed to alleviate the great distress caused to innocent small boat owners. He forced the Treasury Department and sponsors of this bill to accept that amendment.

OUR FOREIGN RELATIONS SCORNED

Andrew Mellon, in his letters to the Immigration Committee and the Committee on Interstate and Foreign Commerce, said:

> Work must be done in harmonious cooperation with our neighboring countries and their consent obtained as a matter of courtesy.

That is a most obvious suggestion to anybody who is familiar with border conditions. In this bill we close the open border against Canada and against Mexico. That is a new idea. It is a violation of the state of amity and friendship which has existed during all of these decades.

As the gentleman from New York [Mr. MEAD] has just said, when we dedicated the international bridges at Buffalo and Detroit, and the international tunnels, statesmen from both countries came and congratulated one another that the Canadian was not a closed border, such as prevailed between European countries, and caused these clashes, suspicions, hatreds, and hardships on innocent persons.

But now, as set forth in the hearings, Mr. Alvord, the Treasury Department legislative expert, is forced to admit they will have to go probably to the "card permit" system of European countries.

COMPULSORY REGISTRATION OF AMERICANS

The "card permit" system is a passport system. It forces voluntary and really—as a fact—compulsory registration of millions of border American citizens. But, even worse, the American citizen not living on the border is out in the cold. No "card" system is discussed for him.

Canada has been good to us. She has cooperated with us. I talked with a high American customs official as to what effect Canada's embargo on liquor to us would have. He said: "We can now take off a lot of the border patrol in Detroit." The bootleggers are selling their boats. The Canadian Government seized some bootleggers' boats the other day because they could not pay the wages of their employees. The border is virtually closed, by the recent Canadian order, to rum-running now at Detroit. The price of a quart of whisky in Detroit has risen $2 or $3, and it will rise more probably before long. The bootleggers are going out of business, not so much because the American border patrol has put them out of business but because the Canadian patrol is doing it. Hon. Ernest Camp, former Commissioner of Customs, said some time ago at Ottawa before high Canadian officials that about 90 per cent of the American border patrol was at that time crooked or inefficient. They were made so by a bad law, the eighteenth amendment. On the other hand, good Canadian liquor laws have kept the Canadian police remarkably honest and efficient.

Now, how can Canada get back at us if we offend or injure Canadians?

CANADA CAN STRIKE BACK

If we compel the issuance of a passport or card or permit to innocent Canadians living on the border, Canada can make us when in its country, furnish them with a card of identification or a permit or a passport.

The relations between the Canadian, Mexican, and American Governments as to radio are very delicate. The countries are negotiating as to a fair use of the air for radio. I am on the House committee handling radio and know that the United States wants as much of the broadcasting waves and short waves and power and channels as it can get.

Canada controls the supply of the world's nickel which we need in our iron and steel and other industries. It controls the supply of wood pulp which our newspapers need for print paper. It controls the Newfoundland and Alaskan fisheries. So we have to live in peace with Canada, and that goes for Mexico, too.

Less than one-half of 1 per cent of the liquor consumed in the United States comes from Canada and Mexico. Why make the border passage so drastic for one-half of 1 per cent?

ENFORCEMENT PRACTICALLY IMPOSSIBLE

Now, I would like to go into the provisions of this bill from their administrative and enforcement aspects. I do not believe that even its sponsors are satisfied in their hearts that the administrative provisions are enforceable or workable. These provisions present impossible situations and insurmountable grants of power to patrolmen and subordinate officials.

This bill has been kicked around for five or six years, and many Federal officials are not satisfied with it. The House Immigration Committee members have registered some hostility toward it. But it should be laid down as a fundamental principle of political science that the legislative branch of the Government should not throw at the administrative branch a law which is half-baked and which can not possibly be enforced, even with terroristic methods and eventualities.

GREAT WATER BORDERS IGNORED IN HEARINGS

There is nothing in the hearings as to the effect of this bill on boats and vessels and navigation on fresh and salt water, except one brief passage that the bill would affect Atlantic and Pacific boats. The Great Lakes and rivers and the Rio Grande border were ignored entirely. Merchandise running into billions of dollars and over a hundred thousand small boats, including canoes, row boats, yachts, and motor boats, big vessels, and millions of American passengers were affected by the bill. But all these were overlooked in the hearings.

I now point to this map of Detroit and the picture of its great water front. Please note the marvelous sky line with its rows of skyscraper buildings. It looks like the water front of New York City, where the great ocean liners have their wharves.

Please note some of the huge vessels, just a small part of the grandest fleets of fresh-water boats in the world. There are but a few ocean vessels larger.

"Dynamic Detroit" is the fourth largest city in our country, and it stands for making life easier and happier for all mankind.

DRYS HATE BIG CITIES

The gentleman from Kansas [Mr. HOCH] and the gentleman whose name this bill bears, Mr. HUDSON, of Michigan, apparently do not think so much of this city. You remember the Hoch alien amendment bill which they forced through the House last session and which we big-city Members finally killed. It meant that Detroit would be deprived of one Congressman. I do not like to say that the bill aimed to "steal" one Congressman, because that is a rather harsh word, but under that Hoch bill Detroit would have been unjustly deprived of one Congressman. The drys put through this alien bill to deprive Detroit of its just rights. Now, the only way we could defeat that bill was to tack on the reapportionment bill the Tinkham bill. Some did not want to do that, but they had to fight fire with fire. I voted for the Tinkham bill.

Now, here is a picture of a fleet of the greatest passenger steamers in the world plying fresh water. When these 7-deckers swing out from their docks they go into Canadian territory. That river is only 2,500 feet wide at this point, and the Canadian border is 1,250 feet out from that dock. When a boat swings out into that river it enters Canadian territory and it passes through Canadian territory again at Lime Kiln Crossing, about 20 miles downstream.

The boats in the St. Lawrence go through Canadian territory. That great fleet of Great Lakes oil carriers, wheat carriers, and coal carriers, and ore carriers violate the provisions of the Hudson bill when the boats making up those fleets go on the Canadian side of Great Lakes rivers. They violate the provisions of this Hudson bill which provide that any person returning to the United States from a foreign country must report at a designated point of entry.

Now, for a little history of navigation laws. Some prominent statesmen of this House, the late lamented Republican leader of the House, Mr. Mann, of Illinois; Mr. Alexander, of Missouri, who was afterward Secretary of Commerce; and Mr. Redfield, former Representative from Brooklyn and also former Secretary of Commerce, had passed through Congress a specific law covering all that region to which I point on the map, that 1,500 miles of Great Lakes boundary, making it unnecessary for small boats under 15 tons burden to report. Later the work was completed by two sections of the tariff bill, which has just been considered again by the House, the Senate, and the President, and which is again the law. The acting chairman of our Merchant Marine and Fisheries Committee, Mr. LEHLBACH, will present an amendment which I have prepared which will safeguard those navigation and tariff laws which protect those innocent people. I have forced some protection for these 100,000 small boats.

SMALL BOATS FAIRLY WELL PROTECTED

As a result of my campaign of the past few weeks against unfair and unwise provisions of this Hudson bill, the House Interstate and Foreign Commerce Committee and the Treasury Department agreed to submit an amendment specifically instructing the Treasury Department to make regulations for the "convenience" of these small boats, their owners, and their passengers.

I had a specific statement from them that the regulations would not be aimed to "inconvenience" these innocent persons.

I also had the promise of the Member in charge of the bill, Mr. HOCH, that he would arise and state for the record that it is not the intention of the framers of the bill to compel small boat owners to register with any Government agency any more than they now do, and also that they would not be compelled to report if they do not bring back merchandise or aliens.

Mr. Hoch and the Treasury Department and the legislative agents who drew up this bill also emphatically stated that it is their belief that this Hudson bill does not repeal the navigation law of 1912, Revised Statutes 4218, nor the two tariff laws under discussion. That should be considered when the law is being enforced and administered, if the bill does become law.

Personally I am quite convinced that the bill does repeal the above three laws if passed as it is, for it is a well-known rule of law that a new law repeals all existing laws with which it conflicts. I believe this Hudson bill certainly conflicts with the aforesaid three laws.

There can not be much doubt that it gives the Treasury Department the power to make regulations on small boats which under these three laws were exempt from such regulations.

I fear to leave the small boats at the whim or caprice of the Treasury Department. Some day a Secretary of the Treasury may be appointed who is a dry fanatic and he may stretch these regulations to harass, embarrass, or persecute the small boats.

That is why I favor the Lehlbach amendment as against the Hoch amendment, because the Lehlbach amendment places right in the Hudson bill, exclusive of regulations later to be announced, the safeguards of the small boat owner.

BIG VESSELS ENDANGERED

Also the Lehlbach amendment is much better, because big boats, the great fleets of passenger and merchandise vessels, which must enter Canadian waters on their numerous voyages between American ports, are protected. The Hudson bill as it now stands and as it will be passed by this House makes it a crime, with the penalty of seizure and sale of the boat and cargo, even though the value is millions, if the vessel enters Canadian waters and then does not report at an American point of entry.

But one godsend is that these big boats are owned by great corporations, such as the United States Steel Co., the Ford Motor Co., the Detroit & Cleveland Navigation Co., and so forth, and they will compel the Senate to amend the bill for their protection, whereas we have won practically the battle for the little fellows, whom the drys would ordinarily ignore.

Wait until the Lake Carriers' Association gets busy on this bill in the Senate and then see what a different bill will be made—at least, that is my hope.

What about the land border? The residents there will be in pitiable shape if the bill is not amended to protect him, as it has been for the small-boat owner, whose protests I aroused and made effective.

LAND RESIDENTS ENDANGERED

The gentleman from Michigan [Mr. Hudson] made the flat statement in the press that his bill will not compel registration nor permits for the border residents or other Americans. Right here in the hearings you find Mr. Alvord, legislative agent of the Treasury Department, who helped draw up the bill, admitting registration and permits. Did Mr. Hudson read the hearings on his own bill? Why should he deny what is true?

Mr. Alvord tried to duck the question when it was put up to him as to how the Treasury Department aimed to handle border and nonborder people; they were going to take care of these people whose houses and farms and stores are across the border, and the gentleman from Oklahoma [Mr. Garber], a friend of the bill, quite unintentionally I imagine, pinned him down in this way. I quote from the hearings, page 14:

> Mr. Garber. Have you given consideration the rules and regulations to be drafted by the President? * * * Visualize to us now the rules and regulations that would operate in supplementing the patrol to be affected by this bill.
>
> EITHER VOLUNTARY OR COMPULSORY REGISTRATION
>
> Mr. Alvord. If I could do that with any degree of certainty that would be sound, I would be very glad to. In my mind, in working on this thing, I have sort of a picture very likely for a farmer who has a lot of land on both sides of the international boundary, a very general provision saying that that sort of person can go ahead in the ordinary course of business without reporting when he comes back into the United States. If a general provision such as that will not work, I suppose you will have to come through with a scheme such as they have in foreign countries, where everyone carries a card of admission, carries that card on his person, and if he has that card he is permitted to go in. If he has not, and is caught going in at other than the designated point he is subject to arrest.

There is your reluctant admission that the bill compels, on pain of arrest and being dragged away many miles to a point of entry, voluntary and, in actuality, compulsory registration. The card or permit or passport must be obtained, and, moreover, no matter how great the nuisance, always carried on the person, otherwise the often brutal and officious border agent will take the man, woman, or child to jail. The law is mandatory. You can not build enough jails on the border to house all the innocent men, women, and children.

There is your "European" or "Russianized" system Mr. Alvord admits, although Mr. Hudson flatly denies it.

The American Federation of Labor, at its annual convention in Atlantic City in 1925, under the leadership of its talented and greatest leader, Sam Gompers, covered that point, opposing alien registration because it would eventually lead to American registration.

Mr. Gompers and the report said:

> It is inconceivable that the American Congress will seriously consider legalizing an elaborate system of espionage, such as this measure (the Aswell alien registration bill) contemplates; nevertheless, we earnestly urge upon the executive council a continuation of its opposition, so that this dangerous proposition, antiunion and anti-American in principle, will not be written into law.

Yet the Congress is now enacting "an elaborate system of espionage" on the border.

Then further the report runs:

> The American Federation of Labor is opposed to the registration of aliens proposal. If foreigners who come to this country are Germanized, it will not be long before the citizens of the United States will be compelled to register.

The American Federation of Labor refers to the Kaiser's system and I emphasize the Czar's and soviet systems.

Now, before I conclude I will yield to the gentleman from Kansas [Mr. Hoch]. Does the gentleman want to ask me about the matter of the Hoch alien amendment bill and its aim to cut down the number of Congressmen from big cities?

Mr. HOCH. I was just going to ask the gentleman if he favors counting aliens, men who have not sworn allegiance to this country, in determining the number of Congressmen a State should have and in determining the electoral vote a State should have?

Mr. CLANCY. Yes; I favor the counting of aliens, because the Constitution of the United States specifically provides for that and formerly the Constitution did for the counting of slaves. The principle is well recognized by court decisions and is fair. Those who oppose the Constitution on counting aliens and those who supported your bill did so frankly to deprive big cities of a number of Congressmen, to which they are justly entitled, and to give these Congressmen unjustly to the rural districts [illegible] he same people have aided in cheating Detroit out of three [illegible] four more Congressmen, to which Detroit has been entitled [illegible] the past 10 years.

Th[illegible]ys did that.

In [illegible] I will ask the gentleman from Kansas [Mr. Hoch] a question that goes to the very vitals of our representative government. When he secured the passage of the Hoch alien amendment bill last year, myself and others immediately secured the passage of the Tinkham bill on the fourteenth amendment. That was the cold steel and the gentlemen and other drys were thunderstruck. They could not face the cold steel.

Is the gentleman from Kansas in favor of counting some 15,000,000 disfranchised negroes in the South for apportioning Congressmen, in strict violation of the fourteenth amendment? The effect is to give the drys many seats in the House to which they are not entitled. The gentleman knows the House finally compromised on both amendments by striking them both out on later votes.

Mr. HOCH. Oh, the gentleman talks about the Anti-Saloon League all the time, and I will say to the gentleman I never heard from the Anti-Saloon League, directly or indirectly, with reference to this measure; but I would assume they are in favor of a law the purpose of which is to help enforce the laws of this country.

Mr. CLANCY. Very well.

Mr. HOCH. That is as accurate as the other statements the gentleman has made. The Anti-Saloon League has no connection, in a direct or indirect way, with the apartment house in which I live.

MAKING NEW SINS AND CRIMES

Mr. CLANCY. Now, let us examine a little farther into the mean and wicked features of the crime sections of this bill. You will then realize more fully why I am insisting that the "new crime" features be stricken from the bill. I have no hope of getting the House to do this, for the word has gone out that the Anti-Saloon League wants the bill to include the "new crime" section.

Most theologians are benevolent, but some wicked theologians just dote on inventing new sins and new crimes. They like to throw humanity into a state of sin and then go through a rigamarole to get them out. This bill makes a new sin and the Treasury Department washes away the sin in theory. Hundreds of thousands of years before Christianity was established witch doctors, voodoo spell workers, and medicine men gained tremendous power over their fellow beings by pretending to have control over good and evil "spirits" and the supernatural.

They made certain human acts, innocent in themselves, "taboo," and then the poor devil of a human being had to "cough up" to the witch doctor to get out from under. If one "scoffed" at the witch doctor or his works, the doctor "prayed" him to death. If the "praying" did not take, the poor wretch was put to the torture through the witch doctor's influence or a little poison was dropped into his food or drink.

Much of humanity has outgrown the witch doctor, but he still holds as much power as ever among certain savage tribes.

The student of the growth and development of these barbarous practices, so boldly put into effect among untutored savages, can see the parallel in certain tricks and "rackets" worked by the Anti-Saloon League.

Dr. F. Scott McBride, general superintendent of the Anti-Saloon League, was playing the witch-doctor game when he boldly declared:

> The Anti-Saloon League was born of God and is being led by God.

Dr. Clarence True Wilson gives the ancient lines when he continuously demands that "the fear of God" be put into the opponents and scoffers of the Anti-Saloon League. That terrible phrase has been used throughout the ages to put many an innocent man, woman, and child to torture and to death. The good doctor also yells raucously for the horrors of martial law to be put on the civilian population of the great States of New York, Maryland, and any other people of the Union who vote against a State prohibition enforcement law as the aforesaid two States did.

THE FEAR OF GOD SCOURGE

The theologians of the Middle Ages used the invention of witchcraft to put "the fear of God" into scoffers. Witchcraft, of course, was an ancient subterfuge as old as the race. It involved the crime of persons talking to or communing with good or evil spirits, and, of course, had no foundation in fact. But in the witchcraft craze fostered by wicked theologians a terrible toll of innocent lives were taken and many innocent persons were maimed for life by being put to torture.

Even after Columbus discovered America witchcraft persecutions raged, and in one period after Columbus historians estimate that 1,400 innocent women were burned at the stake or put to death in a horrible manner. Every school boy and girl knows how the witchcraft persecutions raged in New England.

With that background in mind now let us again take up the further examination of this bill so fondly desired by the Anti-Saloon League because it sponsers a artificial crime and gives an opportunity for the arrest and jailing of millions of innocent men, women, and children.

THE ARREST ON SUSPICION

We are indebted to the very able gentleman from Missouri [Mr. MILLIGAN], one of the subcommittee of three handling the bill in one of its stages, for light on the new departure in American Federal law, the "arrest on suspicion." This means that almost anybody on the border can be thrown into jail under the Hudson bill and held indefinitely until another offense, other than mere border passage, can be proved against him, unless the offender is smart enough to get a writ of habeas corpus.

I will give the brief passage of the hearings on pages 18 and 19, setting forth the dialogue between Messrs. MILLIGAN and Alvord. Please note that at first Mr. Alvord maintains that even the writ of habeas corpus, the noble weapon forged by the human race to combat tyrants, will not work against his scheme, which "we had to scratch our head to concoct," and for which he admits there is no other parallel in American criminal law. Thank God for that, and if the Senate does its duty, this dastardly section of the Hudson bill will be stricken from it!

Here is the ominous passage:

> Mr. MILLIGAN. Is not that very unusual, section b on page 2? You arrest a man for a misdemeanor and then you try him for an entirely different crime?
>
> Mr. ALVORD. That probably is not unusual. Persons are frequently arrested for one offense and by the time they are ready for trial or for commitment they decide to change the offense.
>
> Mr. MILLIGAN. You arrest him not with the intention of trying him for that offense. You arrest him merely to take him into custody so that you can try him for some other offense?
>
> Mr. ALVORD. That I think is right.
>
> Mr. MILLIGAN. Is not that rather unusual?
>
> Mr. ALVORD. It may be somewhat unusual.
>
> Mr. MILLIGAN. Suppose you arrest a man and then he would sue out a writ of habeas corpus?
>
> Mr. ALVORD. I doubt if the writ of habeas corpus would lie because he was lawfully arrested.
>
> Mr. MILLIGAN. He can sue out a writ of habeas corpus in any case, whether he is guilty or innocent?
>
> Mr. ALVORD. That is true.
>
> Mr. MILLIGAN. He sues out his writ and then you contend that he has violated this section because he did not go to a certain point. Then you take him back and try him for an entirely different crime?
>
> Mr. ALVORD. Of course, you can try him for this.
>
> Mr. MILLIGAN. But that is not the intention.
>
> Mr. ALVORD. And that would be the issue on the petition for the writ.
>
> Mr. MILLIGAN. Certainly it would be the issue that he has violated this provision, but the real intention is to try him on an entirely different offense. Is that true?
>
> Mr. ALVORD. That is true. As I see this thing, the real purpose of it is to try him for some other offense. If he has really committed a serious offense against the customs or the immigration, he should be tried for that, and if he has not he ought not to be tried for this, I would say.
>
> Mr. MILLIGAN. The real intention in arresting him is to investigate.
>
> Mr. ALVORD. That is it.
>
> Mr. MILLIGAN. Is there any other law with a similar section in it?
>
> Mr. ALVORD. I do not know of any; no, sir. We had to scratch our head to concoct a means of getting ample power there. I think this does it.

The Anti-Saloon League has long tried to break down the Bill of Rights of the American Constitution, and has especially assaulted the provisions guarding the individual against being molested in his home and of his being arrested or jailed on pretexts. Particularly in Michigan we have had for some years Dr. R. N. Holsaple, head of the Michigan Anti-Saloon League, who advocated "smell" and "snooping" laws and the imposition of cruel, unusual, and excessive punishments.

Now here in the Hudson bill, named after a man who was formerly the head of the Michigan Anti-Saloon League and the predecessor of Doctor Holsaple, we have the principle of "arresting on suspicion" well on its way to adoption by the House, for I have no hope of killing the crime sections of the bill in the House.

No wonder Doctor Holsaple sent me an imperative telegram the other day to support the Hudson bill; vote for it and work for it as it came on the floor, even before it gets the humane amendment guarding in a way against the persecution of small boats.

Here is a bill which would delight the soul of your 100 per cent witch doctor or your witchcrafting theologian.

That is what tyrants have always done; arrest on suspicion and fill the jails to overflowing. Let the poor wretches scream! The Nero, the czar's secret-service agent, the big tyrant, and the petty tyrant must have his fun.

The French Revolution and the Russian Revolution are no lessons to the tyrant. The French celebrated their Fourth of July the other day. They set their national holiday on the day the French people captured their notorious jail. The fall of the Bastile! What volumes the phrase spells on the infamous doctrine of "arresting on suspicion"!

"Exiled to Siberia" and "Down with the czar"! How eloquently do these phrases ring out to the student of constitutional history and the lover of personal liberty. How many poor innocent wretches were "arrested on suspicion" by the secret police who swarmed everywhere and were sent to torture and often to death before the people got their hands on the czar and his racketeering theologian, Rasputin, who, if he had lived in this country, would undoubtedly have forced his way to leadership of the Anti-Saloon League.

Now, in the name of sacred prohibition you are putting across this bill providing for "arrest on suspicion" and "arrest for an innocent act," the mere crossing of the border which has never heretofore been a crime for the millions of Americans who have done so yearly.

In the closing hours of the Congress, under the whip and spur of a rule which allows us only half an hour of opposition to the bill under debate of the bill and then an hour of time in all for the opponents to show up the weak spots; under these handicaps and under the lash of the Anti-Saloon League the bill is being rushed through.

LEAVE IT TO THE SENATE

Thank Heaven this bill will get adequate consideration in the Senate, both in hearings and on the Senate floor. Both Michigan's Senators have promised that, both Senator COUZENS and Senator VANDENBERG, and I know they will keep their word.

Again I say I am making record not for the House but for the Senate. If you will further amend this to-day, before it is too late, by striking out the four crime sections and accepting my substitute for these sections, then the bill will not be such objectionable legislation. You will have your unification of the border patrol, as requested by the President, and you will not have duplication of work by the customs and immigration border patrols.

Do not blame the "new crime" features of this bill on President Hoover. He did not ask you to put in these crime sections. He merely asked for the unification of the border patrols. You did not include the Agricultural Department patrol, nor did you give the work to Coast Guard patrols on the border, as probably contemplated in the President's message. Neither proposal was feasible, and the President expected you undoubtedly to do your duty. He would undoubtedly expect you not to put bad features into the unification legislation. You can not hide behind his mantle or message in putting over bad legislation.

I now give my amendment which will cure this bill of most of its mean and vicious features. The House sponsors of this bill say they will kill this amendment but I hope the Senate adopts it. It is as follows:

Amendment offered by Mr. CLANCY to H. R. 11204: Strike out sections 3, 4, 5, and 6 and insert in lieu thereof the following:

"SEC. 3. It shall be the duty of the United States border patrol to perform, under regulations that may be prescribed by the Secretary of the Treasury, such duties as are, in his judgment, advisable in connection with the unlawful entry of persons or property into the United States.

"SEC. 4. There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this act."

If you will strike the crime sections out of this bill, then it will not be such objectionable legislation. You will have your unified border patrol as requested by the President. You will not have the immigration and customs men duplicating their work on the border. But remember, if you insist on the "new crime" sections you are putting violent men on this border. One of them at Detroit went 150 yards into Canadian territory not long ago and shot a Canadian named LaFramboise. Various members of the Canadian Parliament arose in Parliament at Ottawa and thundered against "this hypocritical nation to the south which was invading Canada and imperilling the lives of Canadian citizens."

Two of the Canadian members of Parliament who protested were Colonel Robinson and Hon. Eccles Gott, who represent Detroit river constituencies.

I will not stop to give any details of the murders, outrages, brutalities, excesses, grafting, and invasions of Canadian neutrality by border prohibition agents and officials. Every reader of the newspapers knows that bloody, turbulent record on the borders during the past few years.

But, remember, it is that type of armed agent or patrolmen to whom you are entrusting the tremendous powers granted by this bill, and in many cases, where he is on his own, far from the restraining influences of the point of entry, supervising force.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. MILLIGAN. Mr. Chairman I yield five minutes to the gentleman from New York [Mr. CELLER].

Mr. CELLER. Mr. Chairman, I am opposed to the so-called border patrol bill. It will, in a word, provide for the setting up of an organized, armed, military border patrol between this country and Canada and this country and Mexico. We seem bent upon marring peaceful relations between Canada and ourselves, first by setting up high tariff walls against products from the Dominion, and second by the contemplated restrictive immigration statutes.

Mr. CULKIN. Will the gentleman yield?

Mr. CELLER. In just one moment.

We are constantly irritating the Canadians. We fire upon their ships, and prohibition zeal often brings about occasions like that of the *I'm Alone*, where our Coast Guard ruthlessly fired beyond the 12-mile limit, sank a vessel of Canadian registry, and imperiled on a high and windy sea the lives of the crew of the *I'm Alone*. We chase Canadian citizens across the border; we search them, with or without color of authority, and at Rouses Point and elsewhere we indecently frisk them for flasks of liquor. Now we are to station at various points gendarmes. Traveling through Europe one is compelled constantly to pass the barriers of gendarmes when crossing the various borders. We would now import gendarmes and set them up along our Canadian and Mexican borders.

This bill is simply a stalking-horse for prohibition enforcement. All this talk about immigrants getting across the border illegally and about getting by customs barriers is all "hokum." Our customs and immigration laws are now adequately enforced. Thus prohibition raises again its ugly head—again we are asked for more statutes, more money, to make a rope of sand to enforce that which is unenforceable. Is there to be no limit to prohibition grotesqueries? How long shall we continue this great American farce? Even the President is persuaded to play a part in the prohibition comics that ill becomes him.

The House and Senate have cut down appropriations for the Wickersham commission, so as to limit the work of that commission to a study of prohibition enforcement. The President is not satisfied and would use private funds if he can not get public funds to continue the work of this commission, which has become quite hateful to most Members of both Houses. He has, however, no right to employ private funds for public purposes. On this point I quote section 665, title 31, of the United States Code, Annotated:

Expenditures in excess of appropriations; voluntary service forbidden; apportionment of appropriations for contingent expenses or other general purposes. No executive department or other Government establishment of the United States shall expend in any one fiscal year any sum in excess of appropriations made by Congress for that fiscal year, or involve the Government in any contract or other obligation for the future payment of money in excess of such appropriations unless such contract or obligation is authorized by law. Nor shall any department or any officer of the Government accept voluntary service for the Government or employ personal service in excess of that authorized by law, except in cases of sudden emergency involving the loss of human life or the destruction of property.

The President would thus embark upon a dangerous experiment. What would prevent a coterie of rich men from becoming a sort of supergovernment, to enforce their will by lavish expenditure of funds upon an unwilling nation. The use of private money to investigate prohibition under Government auspices is but one step to the use of private funds for Government enforcement of prohibition.

Ex-Governor Pinchot of Pennsylvania, in 1923, was refused $250,000 for prohibition enforcement by the Pennsylvania Legislature. Immediately the Woman's Christian Temperance Union of that State announced that its organization would raise the required amount through the churches and the Sunday schools, and moneys were raised in this fashion and turned over to Governor Pinchot for the purpose of enforcement. This method of allowing a private organization, like the Woman's Christian Temperance Union, to raise and expend funds for a public purpose was scandalous. If they raised a quarter of a million dollars, they had a right to determine the method of expenditure and the method of enforcement.

Once before Mr. Hoover grew impatient with Government regulations, and when he was United States Food Administrator arranged to have a large portion of his work, as he saw fit, administered and conducted through State organizations, under the direction of volunteer appointees, designated as Federal food administrators for the respective States. He desired to have these State administrators advance the expenses of their State organizations by making payments for rent and salaries out of their own pockets and then have them submit receipts or other evidence with a statement to Washington for reimbursement from the funds of the United States Food Administration. He tried to get the Comptroller of the Treasury to recognize and order payments to these respective State administrators for the moneys that they advanced, admitting at the same time that the procedure involved certain irregularities as to form. The Comptroller of the Treasury rendered a decision, which is to be found in volume 24, Decisions of the Comptroller of the Treasury, September 5, 1917, wherein the Comptroller very rightfully pointed out that—

Congress has found it necessary from time to time, in protecting the interests of the United States, to enact certain general laws in the nature of restrictions on the use and expenditure of appropriated moneys. And it is the duty of the accounting officers to see that said laws are complied with. The money appropriated for the salaries and expenses of the Food Administration is subject to the requirements of these laws and must be disbursed and accounted for in like manner as other moneys appropriated by Congress.

In other words, the State administrators did not have the right to advance these moneys, because Congress made no appropriations to, and therefore did not give authority to such State administrators in the way that Mr. Hoover desired.

Congress exercises a sharp control over the executive branch of the Government by appropriations. The executive branch can not snap its fingers at Congress by saying: "If you will not give me what I want I shall get the money elsewhere."

To get back to the border control bill, another prohibition grotesquerie, I am unalterably opposed to it, if for the only reason that it will set up a military rule on our borders. And military rule between Canada and the United States is hateful to me.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. HOCH. Mr. Chairman, I yield the gentleman two minutes in order that he may answer a question. On what authority does the gentleman say that we are contemplating a military service on the border?

Mr. CELLER. On the authority of the hearings; you are setting up a patrol on the border, and it will be the opening wedge to a military patrol.

Mr. HOCH. The gentleman's statement is untrue, we do not set up any military service, nothing but what we have there now, a civil-service organization in uniform.

Mr. CELLER. I doubt very much whether that will be the situation one year from to-day.

Mr. HOCH. The gentleman may doubt it, but that is the fact.

Mr. CELLER. I do doubt it.

Mr. HOCH. Mr. Chairman, I yield 10 minutes to the gentleman from Oklahoma [Mr. GARBER].

Mr. GARBER of Oklahoma. Mr. Chairman, members of the committee, the need for the proposed legislation grows out of the actual intolerable conditions along our borders. Information, therefore, relative to such conditions is essential to intelligent action in regard to the pending bill.

The gentleman from New York [Mr. O'CONNOR], in leading the opposition to the pending measure, stated that this was the first time in our history that it was proposed to place a uniformed, armed patrol upon our borders.

Mr. O'CONNOR of New York. Will the gentleman yield?

Mr. GARBER of Oklahoma. I yield.

Mr. O'CONNOR of New York. The author of the bill said that it is proposed to put an army on the border.

Mr. GARBER of Oklahoma. I am not responsible for what any Member says. I am only responsible for the language in the bill and what it proposes to do. The border patrol was established in 1924, and it has been on the border ever since. It is on the border to-day, specially mandated to enforce the immigration laws of the country.

Mr. JOHNSON of Washington. And it is successful, too.

Mr. GARBER of Oklahoma. Undoubtedly. That organization is one of the most excellent we have in the civil service. It has accomplished much good, it has achieved practical results, and during the past few years it has turned back over 79,000 aliens who were unlawfully trying to enter the United States, in addition to many other results which it has accomplished in the field of law enforcement.

Mr. DICKSTEIN. Mr. Chairman, will the gentleman yield for a question?

Mr. GARBER of Oklahoma. Yes.

Mr. DICKSTEIN. I agree with the gentleman on the question of this border patrol, but does the gentleman really believe that we can patrol a border of over 6,000 miles with 2,495 men? I am with the gentleman.

Mr. GARBER of Oklahoma. I am glad to have the gentleman with us on the proposition. He is with us on the question of reorganization also, is he not?

Mr. DICKSTEIN. I am with the gentleman on the question of reorganization, but the language of the bill is such that I object to it because it will make many honest citizens of the United States guilty of technical violations. Aside from that, does the gentleman honestly believe that 2,495 men in the border patrol, which has charge of immigration and customs and the rest, can patrol a border of over 6,000 miles?

Mr. GARBER of Oklahoma. There are about 5,000 miles of border to be served by the border patrol. In view of the results accomplished by this small, insignificant force that we already have in its turning back 79,000 aliens in three years who were unlawfully attempting to enter the United States, it seems to me that such result would warrant the attempt; and especially in view of the recommendations of all these various departments, these men who have been dealing with immigration for years, it seems to me that we are warranted in acting on their judgment.

The urgent need for this legislation has been clearly shown. What is proposed by this bill? What do we propose to do under its provisions? In the first place we propose to gather up the scattered segments of the various organizations, and unify them, consolidate them into one compact organization in the Treasury Department under the administration of the Assistant Secretary.

Mr. DICKSTEIN. Mr. Chairman, will the gentleman yield for information?

Mr. GARBER of Oklahoma. Yes.

Mr. DICKSTEIN. I have a friend who has property on the border line of the United States and Canada. If he should walk across into Canada he could not reenter his own property unless he went into a port of entry, and that is about 15 miles from there.

Mr. GARBER of Oklahoma. Read paragraph 1 of section 4, and you will find your answer to that question. Under the flexible provisions of the bill it is proposed to move the customhouses up on the border where they belong. The bill authorizes the President to establish additional points of entry, to convenience the traveling public.

THE CANADIAN BORDER

Exclusive of the Great Lakes, our Canadian border extends for a distance of 2,839 miles. Adjacent to and along that border we have 536 immigration patrolmen and 485 Customs Service patrolmen, making a total of 1,021 men patrolling that border, or one man to an average of 2¾ miles for a period of 24 hours. Adjacent to and along this border there are 150 customs ports, or one for the average distance of every 15.78 miles. Some of these customs ports are on the border while others are located at a distance varying from 2, 4, 6, 8, 10, 20, and even as far as 25 miles from the border at points in the interior.

THE MEXICAN BORDER

The Mexican border extends for a distance of 2,011 miles. Adjacent to and along that border we have 311 immigration patrolmen and 175 Customs Service patrolmen, making a total of 486 men patrolling the Mexican border, or one man for an average distance of 4.67 miles. Adjacent to and along this border we have 30 customs ports, some of which are located on the border, and others at varying distances therefrom, the average distance between these ports being approximately 71 miles.

PROVISIONS OF EXISTING LAW

Section 459 of the 1930 tariff act provides:

> "SEC. 459. Contiguous countries—report and manifest: The master of any vessel of less than 5 net tons carrying merchandise and the person in charge of any vehicle arriving in the United States from contiguous country, shall immediately report his arrival to the customs officer at the port of entry or customhouse which shall be nearest to the place at which such vessel or vehicle shall cross the boundary line or shall enter the territorial waters of the United States, and if such vessel or vehicle have on board any merchandise, shall produce to such customs officer a manifest as required by law, and no such vessel or vehicle shall proceed farther inland nor shall discharge or land any merchandise, passengers, or baggage without receiving a permit therefor from such customs officer. The master of any such vessel, or the person in charge of any such vehicle who fails to report arrival in the United States as required by the provisions of this section shall be subject to a fine of $100 for each offense. If any merchandise or baggage is unladen or discharged from any such vessel or vehicle without a permit therefor, the same, together with the vessel or vehicle in which imported, shall be subject to forfeiture; and if any passenger is unladen or discharged from any such vessel or vehicle without a permit therefor the master of such vessel or the person in charge of such vehicle shall be liable to a penalty of $500 for each such passenger so unladen or discharged.

Under the present law every vehicle entering across the border, regardless of whether it carries merchandise or not, must report to the customs officer at the nearest port of entry. With free permission to all parties to cross the line and with the customhouses stationed so far apart and at irregular distances inland from the border the ease for law evasion becomes apparent. For instance, a smuggler with narcotics, intoxicating liquors, or merchandise of any character crossing the border with intention of violating the law, when apprehended, merely states that he is on the way to the nearest customhouse. As the route to the nearest customhouse often necessitates miles of detour, who can dispute it? Here is the existing vice of the present law, which permits and promotes such violation and evasion.

At the same time citizens of the United States riding over their own highways several miles from the boundary, with no intention of crossing the border, are forced to experience the inconvenience and annoyance of search and seizure by the patrolmen.

Such are the conditions along the border under the existing laws and regulations.

REMEDY PROPOSED IN PENDING BILL

The pending bill proposes to correct these intolerable conditions.

Section 1 designates the citation of the act as the "Border patrol act of 1930."

Section 2 (a) establishes in the Department of the Treasury an organization to be known as the United States border patrol and assigns its administration to the office of the Assistant Secretary of the Treasury. Paragraph (b) authorizes the President to transfer to the border patrol all or any part of the personnel of the existing border patrol of the Bureau of Immigration of the Department of Labor and of the Bureau of Customs of the Department of the Treasury or any other border patrol, together with their equipment, and to discontinue the existing border patrol or parts thereof from time to time when in his judgment such action is deemed advisable. Any unexpended appropriations for the existing patrol are transferred and made available for the expenditure under the reorganization.

Under paragraph (c) the Secretary of the Treasury is authorized to appoint such officers and employees as may be deemed necessary for the administration of the act, such appointments to be made within the competitive provisions of the civil service law. The Secretary is also authorized to purchase such equipment as may be necessary.

Section 3 imposes the duty upon the United States border patrol to enforce the provisions of the act against unlawful entry of persons into the United States except at ocean boundaries and to perform such other duties as may be deemed necessary under such rules and regulations as the Secretary of Treasury may prescribe.

Section 4 (a) provides:

> It shall be unlawful for any person to enter the United States from a foreign country at any place other than a point of entry designated by the President, except that this section shall not be applicable in the case of—
>
> (1) Any person who in entering the United States complies with regulations which shall be prescribed by the President for the convenience of persons residing or owning property on or adjacent to the boundaries of the United States.
>
> (2) Any person who in entering the United States complies with the air commerce act of 1926 and the regulations prescribed thereunder.

The committee reporting the bill proposes to amend the above section by adding at the end of paragraph 1 of section 4 (a) the following:

> Or for the convenience of persons entering the United States on vessels which under the laws applicable thereto are exempt either from reporting arrival or from making formal entry at a customhouse.

Paragraph (b) of section 4 authorizes any officer or member of the United States border patrol to arrest any person entering the United States in violation of the act and to seize any merchandise in the possession of any person entering the United States in violation of the act, or any vessel, vehicle, or aircraft, and directs the delivery of such person and merchandise into the custody of the officers stationed at a point of entry or elsewhere as the Secretary of the Treasury may by regulation prescribe.

Paragraph (c) of section 4 provides:

> Any person who violates the provisions of this section shall be guilty of a misdemeanor and, in addition to all other penalties provided by law, be subject to a penalty of $100. Such penalty shall be a lien against any vessel, vehicle, or aircraft in which the entry in violation of this section is made. Such penalty may be enforced, or may be remitted or mitigated, in the same manner as a penalty for a violation of the customs revenue laws of the United States.

Paragraph (d), section 5, provides for the forfeiture of any vessel or vehicle seized by the Treasury Department, which, upon application to the court, may be delivered to the department for use in the enforcement of the provisions of this act.

Section 5 authorized the necessary appropriations for the maintenance of points of entry, the acquisition of sites, construction of buildings, and for such other purposes as may be found necessary in the enforcement of the act.

Under the provisions of this bill the immigration patrol and the Customs Service patrol will be merged into one organization; that is, the border patrol. The points of entry, the customhouses, and the administration offices of the border patrol will be stationed on the border where they belong. The border patrol will simply patrol the border as police officers charged with the single duty of seeing that no one enters the United States except at a point of entry. At each point of entry will be stationed administrative officers having charge of the administration of the various border laws.

In fact, one administrative officer with sufficient clerical assistance might be able to administer the several laws. Any violators arrested would be taken by the patrol to the nearest administration office where all matters pertaining to the violation would be settled by a qualified, competent administrator.

In voicing his opposition to this bill the distinguished gentleman from Michigan said:

> It closes the border against Canada and it does the same thing for our great neighbor on the south, Mexico.

At the present time we have 150 customs stations on the Canadian border. Under the tentative program of reorganization, it is proposed to established 175 additional points of entry, making a total of 325 points of entry on the Canadian border. Instead of closing the border it opens additional roads across the border. Where we now have one road, we propose to establish two or more. Where the points of entry now average 16 miles apart, under the reorganization they will average only 7½ miles. Instead of apprehending innocent people in the interior, the apprehension will be upon the border and entry at any other point than at a point of entry will be prohibited. The distance to a point of entry for those crossing the border will be reduced more than one-half, so that instead of closing the border, as stated by the gentleman from Michigan, we are establishing additional points of entry for their convenience. Facts versus declamation!

In leading the opposition to the proposed measure the gentleman from New York said:

> Now for the first time in 116 years it is proposed that we place an armed and uniformed force along those borders under the guise of controlling immigration, prohibition, and customs. Let us in calmness consider the need for such an extraordinary departure from our traditions.

The gentleman permitted that statement to stand in the revision of his remarks after having been informed that the facts were misstated.

The act creating the border patrol was approved May 28, 1924. It carried an appropriation of $1,000,000.

The act of February 27, 1925, carried an appropriation for a similar amount available only for coast and land border patrol.

By General Order No. 42, dated December 11, 1924, issued by the Department of Labor, the patrol was required to wear uniforms.

By General Order No. 61, dated March 18, 1926, issued by the Bureau of Immigration, its purposes were succinctly stated as follows:

> The border patrol is an auxiliary branch of the regular Immigration Service. The patrol is established primarily to prevent and detect the surreptitious entry of aliens into the United States. It will, however, aid in the enforcement of all Federal laws designed to safeguard our country against the introduction of contraband. The patrol will, in general, operate along and in the vicinity of the international and maritime borders of the United States.

SEIZURES BY IMMIGRATION BORDER PATROL

Approximately 90 per cent of the personnel of the present patrol are war veterans, selected through the agency of civil service. They are well trained and efficient, and in spite of the handicaps under which they have been functioning with existing free entry across the border, and with a personnel decidedly deficient in numbers, they have achieved a remarkable record of law enforcement. The following figures show the seizures by the immigration border patrol during the fiscal years ended June 30, 1927, 1928, and 1929, as well as the necessity for such service.

Seizures by the immigration border patrol during the fiscal years ended June 30, 1927, 1928, and 1929

Delivered to—	Persons apprehended	Automobiles		Other conveyances		Liquor		Miscellaneous contraband, estimated value
		Number	Estimated value	Number	Estimated value	Quantity (in quarts)	Estimated value	
1927								
Immigration	17, 225	49	$25, 565	29	$9, 445			60
Customs	1, 173	446	175, 961	195	24, 385	102, 159	$152, 794	3, 102
Prohibition	232	192	87, 811	74	41, 576	152, 930	203, 360	1, 284
Narcotics	10	1	750					6, 136

Seizures by the immigration border patrol during the fiscal years ended June 30, 1927, 1928, and 1929—Continued

Delivered to—	Persons apprehended	Automobiles		Other conveyances		Liquor		Miscellaneous contraband, estimated value
		Number	Estimated value	Number	Estimated value	Quantity (in quarts)	Estimated value	
1927								
Agriculture	3			1	$40			19
Justice	191	33	$21,200					14,923
Army and Navy	106							1,142
State and municipal	440	65	23,965	4	2,550	8,524	$9,850	4,015
Total	19,382	786	335,252	303	77,995	263,613	306,004	30,687
1928								
Immigration	23,896	29	19,695	2	4,300			25
Customs	871	535	224,009	304	64,767	333,513	363,834	10,253
Prohibition	105	44	22,190	2	265	11,167	7,582	1,563
Narcotics	19	1	500					627
Agriculture	1	1	200					40
Justice	34	3	2,000			171	186	1
Army and Navy	69			1	30			371
Coast Guard	1			1	100	978	2,080	
State and municipal	538	58	23,325	4	340	7,563	13,010	12,571
Total	25,534	671	291,919	314	69,802	353,392	356,692	25,451
1929								
Immigration	33,002	25	8,795	9	1,500			
Customs	848	592	198,679	208	19,727	307,416	271,524	$4,732
Prohibition	117	58	34,700	2	5,075	33,061	56,176	1,191
Narcotics	6							110
Justice	30	3	375	2	1,050	78	130	156
Army and Navy	72							693
Indian Service	1					4	8	
State and municipal	515	61	28,550	1	500	12,310	9,931	51,276
Agents and owners		2	900					
Total	34,591	741	271,999	222	27,852	352,869	337,769	58,158
Grand total	79,507	2,198	899,170	839	175,649	969,874	1,000,465	114,296

Figures not available showing apprehensions and seizures for the fiscal years 1925 and 1926.

Seizures for violations of the customs law for the fiscal year ending June 30, 1929, were as follows:

Seizures for violations of customs law, fiscal year ending June 30, 1929

	Automobiles	Boats	Intoxicating beverages (gallons)
Seizures by customs patrol	1,321	410	321,173
Seizures by Customs Service proper	367	32	94,598
Seizures by customs agents	26	25	14,050
Seizures by entire Customs Service	1,714	468	432,821
Joint seizures	84	8	11,883
Seizures by Coast Guard	10	199	120,612
Seizures by Immigration Service	380	80	45,229

In view of the fact that the uniformed armed border patrol authorized by law in 1924 was established in that year and has continued since that time, what becomes of the statement of the gentleman from New York that—

> For the first time in 116 years it is proposed that we place an armed and uniformed force along these borders.

Surely such misstatement must fall in the presence of the facts, and with it the major portion of the gentleman's argument in opposition to the pending bill. Again it is facts against declamation.

The gentleman states:

> I do not object to protecting our borders against the unlawful entry of persons or merchandise. I am not opposed to the consolidation of the different forces who watch for customs smugglers or prohibition smugglers or aliens trying to enter our country in violation of our immigration laws. I am not opposed to reasonable provisions to meet these conditions, but I am opposed to the vicious features of the bill which make a new crime, a crime which any American citizen or any child might commit, innocently, unknowingly, not willfully, and yet be branded as a criminal for life without any possibility of removing the stain of that criminal record.

This objection goes to the prohibition in section 4, which is absolutely essential to the enforcement of the immigration, customs, quarantine, narcotic, and prohibition laws. The gentleman proposes to emasculate this bill and make the enforcement of the various complicated laws subject to the same methods of evasion and difficulties of enforcement which now prevail. He would insert in line 14, of page 7, after the word "person," the words "knowingly and willfully," and in line 17, on page 7, after the word "President," the words "with intent to evade or violate the laws of the United States."

This would open up a loophole for evasion similar to existing conditions. It would permit the violator, when apprehended, to say "It was not my intention to violate the law. I did not know that I had crossed the border." He seeks to justify his amendment as necessary to protect the innocent from unintentional violations of the law. Wherever enforcement and effectiveness of a statute requires such prohibition its elimination would be made nugatory by evasion in disclaiming knowledge or intention. The statute is fully justified by the ends to be accomplished.

Many instances of this kind are to be found in regulatory measures in the exercise of what is called the police power, where the emphasis of the stature is evidently upon the protection of society, rather than the punishment of crimes in cases of mala in se.

Paragraph (c) of section 4 of the bill, enforcing the penalty, provides:

> Such penalty may be imposed or may be remitted or mitigated in the same manner as a penalty for violation of customs revenue laws of the United States.

Section 488 of the customs laws provides that where a violation is caused by accident, stress of weather or other necessity, the violation is not subject to prosecution and the penalties shall not be exacted.

Paragraph 89, 23 R. C. L., states:

> Jurisdiction of forfeiture proceedings under the customs duties laws has always been in the district courts. These proceedings are generally considered to be civil in their nature. Statutes to prevent frauds upon the revenue are considered to be enacted for the public good, and therefore, although they impose penalties or forfeitures, are not to be construed like penal laws generally, but are to be fairly and reasonably construed, so as to carry out the legislative intent.

Thus the second objection of the gentleman from New York must fall in the face of the letter of the statute, as well as the rule of construction which looks to the intention of Congress in the enactment of the statute. Congress has no intention to penalize any American citizen or any child who might unknowingly or innocently cross the border with no intention to violate.

It is a gratification to me to bring this information to the attention of the gentleman from New York and I do so with the hope that it will relieve his mind of anxiety and worry over the American citizen and child who, while innocent, would yet be branded as criminals for life, without any possibility of removing the stain of that criminal record.

It is to be hoped that at the conclusion of this arduous day's work of battling for the innocent he will be able to lie down to a couch of pleasant dreams and that sweet slumber will knit up the raveled ends of care.

After an intensive study of the needs for an efficient patrol of the borders, the immigration and customs services have reported the conclusion that an addition of 924 men for the patrol service would be necessary. The need for this reorganization, reallocation of ports of entry, definite designation thereof, and simplification of the law is too obvious to call for argument in its support. The annual appropriations for the existing immigration and customs service patrol are $3,914,386. The proposed unified patrol will increase this amount by $3,314,296. The annual appropriation necessary to carry out the proposed reorganization is estimated by the Treasury Department to be:

First year	$5,782,896
Second year	8,388,108
Annually thereafter	7,328,882

as compared with $3,914,386 for both present patrols. The total increase of cost to be incurred by the proposed reorganization under the bill will amount to $4,241,779—an insignificant amount compared with the resultant contribution to law enforcement in closing up the existing loopholes along our borders which now make impossible the enforcement of existing laws.

The bill speaks for itself. It should receive support of every Member willing to contribute to the simplification and enforcement of the law. [Applause.]

Mr. MILLIGAN. Mr. Chairman, I yield five minutes to the gentleman from Missouri [Mr. COCHRAN].

The CHAIRMAN. The gentleman from Missouri is recognized for five minutes.

Mr. COCHRAN of Missouri. Mr. Chairman and members of the committee, I do not ask for this time to discuss the merits of the bill. I simply wanted to have the gentleman from Oklahoma [Mr. GARBER] and some of his colleagues set right on the subject of immigration.

Whenever the question of immigration is raised in this House those of us who come from large cities are always accused of being opposed to restricted immigration. I come from one of the great cities, where there is a mixed population, American and foreign born. I want the Members of this House to know that I shall be glad to have an opportunity to vote for a bill to [illegible], and I will say that I have repeatedly asked the gentleman from Washington [Mr. JOHNSON], the chairman of the Committee on Immigration and Naturalization, when he will bring in such a bill.

I say that in these times of unemployment we should further restrict immigration. Why should we permit people from abroad to come to this country when there is no work for those already here?

I want to say further that large corporations in my city have urged me to vote against the bill restricting immigration from Mexico. I have replied that I am in favor of the bill and in favor of restricting Mexican labor from flooding this country. They come into this country and take away work from the people of the South. They drive the people from the South up into my section, and they in turn take work away from the people of my city.

I want the Members to know that so far as one Member coming from a large city is concerned, I am in favor of the restriction of immigration, and I will support it. [Applause.]

Mr. DICKSTEIN. Mr. Chairman, will the gentleman yield?

Mr. COCHRAN of Missouri. Yes; with pleasure.

Mr. DICKSTEIN. Under your immigration allowance you get 70,000 from Great Britain, and people coming from that country do compete with our people. Would you take the privilege away from Great Britain?

Mr. COCHRAN of Missouri. I will say that I have never been in favor of the national-origins clause. It is responsible for the large quota from England. I will vote for its repeal. I will vote right now to reduce all immigration 50 per cent. [Applause.]

There is another important question I would like to touch on. That is, the amount of money now being sent abroad by citizens of this country for the upkeep of their old parents. I think it advisable for the Committee on Immigration to learn from the big banking houses how many millions are sent abroad monthly for this purpose. The foreign-exchange departments of the banks can tell you. I am advised it runs into the millions. If that be so, would it not be the smart thing to do to consider allowing the aged parents of citizens of this country to come here, provided the children filed with the Department of Labor a bond guaranteeing that their parents would be cared for and that they would not be permitted to seek employment? Would it not be better to spend this money in this country when we know the immigrant will not be allowed to compete with American labor?

The CHAIRMAN. The gentleman from Missouri yields back one minute.

Mr. MILLIGAN. Mr. Chairman, I yield five minutes to the gentleman from New York [Mr. O'CONNOR].

The CHAIRMAN. The gentleman from New York is recognized for five minutes.

Mr. O'CONNOR of New York. Mr. Chairman and members of the committee, I did not intend to further engage in the general debate on this bill, but I feel compelled to do so on account of the remarks of the gentleman from Oklahoma [Mr. GARBER].

I thoroughly understand this bill. I have studied it, read all the hearings and all the reports, and listened to the discussions before the Committee on Rules. I yield to no man in an understanding of this measure.

When I say that for the first time in 116 years there is to be established an armed force on these borders I take as my authority the language used by the supporters of the bill: For the first time in all these years it does put on these borders an armed force, or a police force, if you prefer that nomenclature.

The gentleman from Michigan [Mr. HUDSON], the introducer of the bill, in his remarks in yesterday's RECORD, calls it an "army," a "peace-time army." He emphasized the fact that they would be in "uniform." It would be at least a police force. Of course, the border patrols wear uniforms now, but they are more or less nondescript.

That is what I mean when I say you are for the first time placing on our borders an armed force. It is a new departure, and the chief reason advanced in support of this bill is to put a trained, uniformed police force, at least, along these borders.

I am not opposed to a unified border patrol. I do not oppose preventing aliens from coming into this country illegally. I am not against the seizure of goods smuggled into this country. I am not against the seizure of liquor illegally entering this country. I am for all those measures. If you never take section 4 out of the bill, the criminal section, which must offend everyone's sense of justice, which section makes it a crime for anybody, however innocently, to step over the American border, you will still have all you need for a unified border patrol. You will then have these different patrol organizations brought together. You will be able to apprehend the unlawful immigrant and the smuggler of goods or liquors.

Yesterday the gentleman from Kansas [Mr. HOCH] again fell back on the argument which has been used so often in representations concerning this bill, and will probably be used again, that this law does not make any change in the present situation. If that is true, then I contend the present situation is fundamentally wrong, and the mere fact that we now annoy and harass people coming into our country is no justification for the continuance of that system, much less adding to it by further offensive measures.

Mr. JOHNSON of Washington. Will the gentleman yield?

Mr. O'CONNOR of New York. I yield.

Mr. JOHNSON of Washington. The gentleman would not think that people should come in as they pleased across the borders, either smugglers or immigrants surreptitiously entering this country, without any check or hindrance?

Mr. O'CONNOR of New York. No. Nobody should come into the country illegally, but if a person comes into the country, not a smuggler, not an alien, but an American citizen, bringing no merchandise, I will ask the gentleman from Washington if that man should be called a criminal?

Mr. JOHNSON of Washington. No; and he is not.

Mr. O'CONNOR of New York. Oh, yes; this bill makes him one.

Mr. JOHNSON of Washington. I do not think so.

Mr. O'CONNOR of New York. It does. There can be no mistake about it. The language reads "it shall be unlawful," and if a man, for instance, is hunting in Canada and does not know where this imaginary boundary line is and steps 1 foot over the boundary, he is forever a criminal and can never wipe out the stain. I challenge the lawyers in this House to state honestly and frankly if that is not the fact?

Mr. JOHNSON of Washington. That is not the intention. I think the law will be reasonably enforced.

Mr. O'CONNOR of New York. Oh, its enforcement can not be safely left to a lot of cops.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. MILLIGAN. I yield to the gentleman from New York five additional minutes.

Mr. O'CONNOR of New York. When you are enacting criminal laws you should not leave discretion to the policeman as to whether he shall enforce the law. This bill reads, "it "shall be unlawful." That ends all question about it. The act of unlawful entry makes the crime complete. It is a "misdemeanor," expressly declared so to be in the bill. I ask the gentleman from Michigan [Mr. MICHENER] if that is not what the law provides and if a man is not guilty of a crime the moment he steps across the border, even though innocently?

Mr. MICHENER. I am not familiar with the bill, and I did not notice what the gentleman was saying, and therefore I can not answer.

Mr. O'CONNOR of New York. I have never yet heard it disputed that the mere entry, however innocent, is a crime. I pause now to have my statement denied.

Mr. HOCH. The gentleman must compare it with the present law. I will ask the gentleman, if a man comes across the border to-day in an automobile, bringing no merchandise of any sort, he has not violated the law if he fails to report to the customs port of entry?

Mr. O'CONNOR of New York. That is the law, and again the gentleman falls back on that defense of his bill. The present law is vicious in that respect. There are thousands and thousands of roads going into Canada, and it is impossible for a man, unless he is familiar with the situation, to know where a customhouse or point of entry is. The present law should not exist.

But the gentleman continues to evade answering the question that I put to him on Thursday last. Is it not an indisputable fact that by this bill you make a man with no merchandise, who steps 1 foot across the border innocently, guilty of a crime? Is that not the fact?

Mr. HOCH. The gentleman did not evade anything.

Mr. O'CONNOR of New York. Will the gentleman answer that?

Mr. HOCH. If the gentleman will allow me to answer it in my own way.

Mr. O'CONNOR of New York. Well, the answer is "yes" or "no."

Mr. HOCH. I will answer it if the gentleman wants me to answer it.

Mr. O'CONNOR of New York. I do.

Mr. HOCH. This law provides that if you cross at any place other than a point of entry you violate the law, with certain exceptions, which the gentleman entirely ignores.

Mr. O'CONNOR of New York. Oh, no. I do not ignore any exception. The only exceptions in the bill apply to persons with presidential permits who reside or own property on or in the neighborhood or vicinity of the border or airplanes. Will the gentleman tell me what those words, "neighborhood or vicinity" of the border, mean? I do not know what they mean. Is 5 miles in "the neighborhood or vicinity"? Is 10 miles? Is 50 miles? I do not know. Who is going to interpret those words? The President is expressly restricted to giving permits to people who live or own property in the vicinity or neighborhood of the border. There are thousands of people who frequently travel to Canada who do not live within 50 or 100 miles of the border. To such persons the President, in my opinion, could not give a permit.

Mr. HOCH. The gentleman's position would lead us to the situation where we would have no law to enforce any of these laws.

Mr. O'CONNOR of New York. Oh, you would have sufficient law without the criminal section 4, but I beg you not to make the entry unlawful, however innocent or unwillful. Accept the amendments I propose to offer, so that a man who crosses unknowingly and without intent to evade our laws shall not be guilty of a crime. Under the bill as now drawn a man will be guilty of a crime, even though he crossed the border innocently.

Mr. WILLIAM E. HULL. Will the gentleman yield?

Mr. O'CONNOR of New York. Yes.

Mr. WILLIAM E. HULL. Would they not have so many policemen there that you could not cross without being a criminal?

Mr. O'CONNOR of New York. Yes; they may eventually have that many. The proposal of the Anti-Saloon League to stand an army on the border, shoulder to shoulder, may yet come true. Now, there is much talk about these points of entry. These stations at present are from 5 to 250 miles apart. It is only proposed to add about 175 on the Canadian border. That would not make a dent in the surface of the problem. There will be five times as many paths and roads over that border as there are patrolmen. A man may own a piece of property on each side of the border, and under this bill the paths on his own property will be closed. If he crosses the border, he will violate the law unless he gets this "ticket of leave" from the President; this Russian permit to return through his own property. Under this bill the paths and roads on such a man's property will be closed to reentry. I am quite sure you do not really want to do that.

Let me repeat, do not fall back on your exception in section 4 giving the President authority to grant permission to anybody who lives in the vicinity of the border or who owns property near the border. There are countless people in New York City, for instance, who make constant trips to Canada on business. They could not get a permit under subdivision (1) of section 4; and if, by accident and innocently, they should cross the border at some spot other than at a point of entry, they would be forever branded as criminals. Nothing could ever wipe out that stain. That is what the bill provides. I challenge anyone to deny it.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. HOCH. Mr. Chairman, I yield one minute to the gentleman from New Mexico [Mr. SIMMS].

Mr. SIMMS. Mr. Chairman and gentlemen of the committee, this bill affects considerably the State of New Mexico, which I have the honor to represent. We have about 350 miles of Mexican border on the south of our State. At present several different branches of the Government service are serving in our contact with the Republic of Mexico. They have not been found particularly efficient. In reading this bill and the report I was struck with the fact that this bill attempts to unify this service and to establish at suitable intervals points where people crossing from Mexico to the United States may be taken to report in order to find out whether they have goods to be taxed.

Mr. Chairman, I have been given a little time in the discussion of H. R. 11204 to express my opinion on its merits and to explain to the House the interest of the people of New Mexico in its passage.

Our southern border joins the Republic of Mexico, and this imaginary dividing line between the two sovereignties extends for more than 350 miles. Over a great part of this distance the War Department has placed a high wire fence, which was erected primarily for military purposes and which denotes the dividing line between the countries. Conditions on our border are very different from those existing on the Canadian border of the United States. The Republic of Mexico has for the past 20 years, since Diaz left Mexico, had varying difficulties in attempting to establish a stable government, and a truthful statement of conditions there will indicate that most of that time comparative peace has reigned in the southern Republic. It is undeniable, however, that the occasional revolutionary activities, sometimes lasting for a period of several years, have distressed the country politically and economically, that American capital has been timid to enter the county, a great part of American investment already there has been dormant, and many new enterprises which would long since have been colonized in Mexico by capital from the United States have stayed in safety at home.

In consequence, and for various reasons, the most important of which is the character of the Mexican population, about 13,000,000 of the total population of 15,000,000 being of Indian blood, education has not been as well disseminated there as here, and the standard of living does not nearly compare to ours. In consequence, thousands of laborers from northern Mexico have been drifting into the United States for the past few years to work on the railroads, in the mines, in the beet-sugar fields, in the irrigated valley of our Western States, and many of them have, indeed, penetrated as far north in the United States as Detroit. They have been well treated, have earned their money, and many of them have taken it back to Mexico with them to enable their families to live. This is fine for the States of the Republic of Mexico, and is the way which, if conditions were equal, we would in the United States, I am sure, prefer to use in dealing with our southern neighbor. Unfortunately, every Mexican who comes to the United States to work displaces an American laborer and helps to dilute the labor market, bringing down the average price of labor and encouraging unemployment.

Liquor is still manufactured and sold legally in the Republic of Mexico, and if there were no barriers of excise it would be freely imported into the United States.

Chinese aliens anxious to come into the country have for many years been seeking the most convenient route into the United States, which lies through Mexico. Narcotics have been frequently smuggled across the southern border.

Many fine articles of merchandise, particularly French perfumes, toilet requisites, and so forth, are probably smuggled into the country from Mexico, where duties on European imports are not high.

The bill under discussion seeks to unify the border patrol, in my judgment, satisfactorily and efficiently. With all these problems it is proposed under the bill to unify the Immigration, Prohibition, Customs, and Narcotics Services under one administration in the Treasury Department, to be known as the border patrol. Under the provisions of the bill, the present employees of the Government, many of them not now under the civil service, are to be taken into the civil service and retained. In addition several hundred more are to be employed. Numerous additional points of entry are to be provided for on the northern and southern borders.

In the case of the Mexican boundaries alone, the present number of points of entry now amount to 28. This is to be increased by 30, which will make a total of 58, more than double our present number. Under the administration of the act all the activities are to be consolidated, as I said above, in a border patrol. These men are to be charged with the duty of enforcing all the various boundary crossing regulations, and when for administrative purposes, they stop or arrest people crossing, they are to conduct them to convenient central administrative posts where the appropriate department of immigration, prohibition, customs, and so forth, can take charge of them.

The State Department very wisely has within the last few months rigidly enforced the immigration act in its dealings with Mexico, and I understand from high authority in the State Department that the number of Mexicans entering the United States at present is not above 500 or 600 monthly. Formerly as many as 30,000 entered per annum. The recent revolutionary disturbances in the State of Chihuahua, one of the States on the border of my own State, New Mexico, will doubtless cause the pressure of immigration to be felt again on our border, as many of these poor working people who have nothing to gain and everything to lose by revolution, will be attempting to flee into our country. I look for the present admirable, stable government in Mexico to quickly settle these momentary troubles in the State of Chihuahua, and that peace will reign again.

To my mind the present bill is an admirable aid to our efforts to cut off indiscriminate immigration from Mexico, and is of substantial aid in the enforcement of the prohibition act, the narcotic act, as well as the customs regulations.

Objections have been urged by Members against the creating of armed, uniformed guards on our border facing a neighboring, friendly State. It is intimated that this would constitute a flagrant and objectionable irritation to our neighbors on the northern and southern borders. Of course, Mr. Speaker, the method of administration of the act by the border patrol will determine whether it will be a source of friction to our neighbor. When we have not suitable men in our employ to give the necessary fair treatment to our neighbor they can be quickly eliminated.

The unemployment statistics recently returned by the Census Bureau for the State of New Mexico shows that but 1.6 per cent of our population is unemployed. We have a peaceful, thrifty, prosperous people, living in harmony, and however much we may regret to deny to our neighbor on the south the opportunity to come and share with us the high standard of living which we have so carefully fostered and maintained for so many years, we find it our bounden duty to look first to our own people. I favor the bill. I hope it will pass promptly.

The CHAIRMAN. The time of the gentleman from New Mexico has expired.

Mr. HOCH. Mr. Chairman, I yield two minutes to the gentleman from Wisconsin [Mr. SCHAFER].

Mr. SCHAFER of Wisconsin. Mr. Chairman, I hope this bill will be passed. I was amazed to see some of the bushwhacking tactics demonstrated by my colleague from Michigan [Mr. CLANCY]. He indicated on the floor of the House that the only reason why he accepted the Tinkham amendment to the census and apportionment bill was because he was forced to do so on account of the Hoch antialien amendment.

Mr. Chairman, had the Tinkham amendment been written into the act more dry-voting Congressmen from dry Southern States would have been removed from Congress than wet-voting Members would have been removed under the Hoch amendment. I voted for the Tinkham amendment and against the Hoch amendment on constitutional grounds and in the interest of the antiprohibition cause. I was astounded to hear the gentleman from Michigan admit that he was not strongly in favor of the Tinkham amendment, which provided for the enforcement of the provisions of the fourteenth amendment to the Constitution, an amendment which if properly enforced would remove about 40 or 50 dry-voting Members of Congress from the Southern States.

Mr. Chairman, the bill before us is in the interest of labor. It is in the interest of American producers. It is in the interest of economy. Since some of my wet colleagues have drawn a red herring across the horizon, I want to say that if it is a question of taking sides between liquors produced from the corn and grain of the Canadian and other foreign farmers and sold by Canadian bootleggers and the liquors produced from the corn and grain of American farmers, produced and sold by bootleggers in America, I will take my stand on the American side, the same as I have in favor of the tariff bill and in favor of a restrictive nondiscriminating immigration law to protect American labor and industry. [Applause.]

Mr. MILLIGAN. Mr. Chairman, I yield five minutes to the gentleman from Texas [Mr. BOX]. [Applause.]

Mr. BOX. Mr. Chairman and gentlemen, I have not been in full accord with all that this bill carries, but members of the Committee on Immigration and I personally have been very much interested in the better enforcement of our laws against the illicit importation of intoxicants and the unlawful entry of aliens. I believe this bill will make for the better enforcement of the law without doing anything seriously irritating to our neighbors or seriously troublesome to those of us who go back and forth across the borders. The establishment of a greater force like this, better supported than any of the border patrols we now have, will command the respect of the country, will command the attention and support of Congress, and will, on the whole, bring about better results than we are now getting.

Members of the Committee on Immigration and Naturalization were instrumental in helping to create the original immigration border patrol. We have known that it has been insufficient in numbers, equipment, and financial support. I have for years urged the increase of its authority and personnel. However, I now feel that this measure is the best that is obtainable and, after all, will be a step forward. Therefore I have resolved all doubts in favor of its enactment and the better law enforcement it promises, and hope it will pass this House and become a law. [Applause.]

Mr. HOCH. Mr. Chairman, I yield the remainder of my time to the gentleman from Washington [Mr. JOHNSON].

Mr. JOHNSON of Washington. Mr. Chairman and members of the committee, when the President's recommendations were made to this House, the Committee on Immigration and Naturalization considered that part referring to the request for a consolidated border patrol. Some of the hearings were public and some plans were suggested for the enlargement and improvement of the border patrol. Some of the hearings were executive, at which considerable important matter was brought out. The Immigration Committee at once took a stand against an enlisted service, under the Coast Guard, for reasons which must be apparent to all. After that and a few other recommendations were cared for, I believe I am correct in saying that almost without exception the members of the Committee on Immigration and Naturalization decided they wanted the border patrol strengthened, enlarged, and given a little more power for the enforcement of all the laws which need enforcement at the border.

Therefore I believe the members of the committee, of which I have the honor to be chairman, will support this bill all the way through. I had the honor to introduce the resolution which was passed by the House in 1924 which created the immigration border patrol. In five years it has proved wonderfully successful, in spite of the fact it took two years, with considerable turnover, to get the type of men capable of enforcing the laws. It holds a record for efficiency which is unexcelled.

It is the hope of our committee that the men of the immigration border patrol go over into the unified patrol service, that they will maintain the morale they have established; that they will act with justice and fairness. I am in hopes that the only law which controls the present border patrol, that giving the right to search and seizure, will not be weakened.

If I could address the officers and men of the immigration border patrol I would say to them:

Men, you will have to act with precision. A commanding officer can not always be with you. It will be your duty to enforce the laws of the United States against all those who would break them at the borders, either by surreptitious entry or by smuggling or by bringing in narcotics or any of those vicious and violent things which the citizens of the United States do not want. You will be often abused by citizens of the United States, for they forget for the moment that they have been in a foreign country, even if only across the border. Be as patient as you can, and explain that these laws are what others countries have; that it is becoming increasingly more important to act as a citizen, and to assist the officers of the United States. Enforce the laws as best you can. Be very careful how you shoot. Do not shoot to kill unless absolutely necessary to save your own life or that of a brother officer. Whenever possible, travel in pairs—let a patrolman with immigration training travel with a patrolman with customs training. You will thus save both time and money for the Government and protect yourselves. Be careful about pursuit farther than the actual "hot trail." Consult your superior officers freely with tips and suggestions. Locate the headquarters and the receiving ends of smuggling bands. Look out for dangerous characters, but be helpful to travelers and kind to women and children. Carry an insurance policy and do your best. [Applause.]

The CHAIRMAN. Under the order of the House the amendment reported by the committee will be read as the original bill for purposes of debate and amendment.

The Clerk read as follows:

> SEC. 2. (a) There is hereby established in the Department of the Treasury an organization to be known as the United States border patrol. In order to secure close cooperation between the patrols along the land and water boundaries of the United States the United States border patrol shall be assigned, for administrative purposes, to the office of the Assistant Secretary of the Treasury having supervision of the United States Coast Guard.
>
> (b) The President is authorized to transfer to the United States border patrol all or any part of the personnel of the border patrols of the Bureau of Immigration of the Department of Labor and of the Bureau of Customs of the Department of the Treasury, or of other border patrols, together with their equipment and appurtenances, and to discontinue such border patrols, or parts thereof, from time to time, when in his judgment such action is advisable by reason of the establishment and effective operation of the United States border patrol created by this act. In case of any such transfer or discontinuance, any unexpended appropriations apportioned for expenditure for the compensation of, or in connection with the performance of the duties of, the personnel transferred or the patrol discontinued, shall be available for expenditure in carrying out the provisions of this act.
>
> (c) The Secretary of the Treasury is authorized to appoint such officers and employees, in accordance with the competitive provisions of the civil service law, and to purchase such motor vehicles, boats, horses, supplies, and equipment as are necessary in the administration of this act.

Mr. HOCH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Kansas offers an amendment, which the Clerk will report.

The Clerk read as follows:

> Amendment by Mr. HOCH: Page 7, line 3, strike out all of the line down to and including the word "law" and insert the following: "civil service act."

The amendment was agreed to.

Mr. HOCH. Mr. Chairman, I offer another amendment.

The CHAIRMAN. The gentleman from Kansas offers an amendment, which the Clerk will report.

The Clerk read as follows:

> Amendment offered by Mr. HOCH: Page, 7, line 4, after the word "boats," insert the words "airplanes."

The amendment was agreed to.

Mr. LAGUARDIA. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, my fear about this bill is that a large force of officials will be assigned to our Canadian border—and I have more fear of what will happen on the Canadian border than I have about what may happen on the Mexican border—and, perhaps, cause irritation between the Governments of Canada and the United States.

We have gotten along splendidly with Canada ever since the existence of the Republic; in fact, the relation between Canada and the United States, considering the large border line, is an example to the whole world of how two neighboring nations can live in peace and harmony.

With the creation of this large force, and with the possibilities of rigid and extreme rules and regulations, and with the power of arresting people crossing and recrossing the border, I fear we will have cause for a great deal of annoyance, which may, in a measure, disturb the very happy relations which exist between the United States and Canada.

Prohibition has been injected into the debate, and necessarily so, by reason of the purpose of the bill and what it will do.

If there is great care in the selection of the personnel, the picking of men of judgment and some training, perhaps this may work out all right. We have had very little trouble with our immigration officials on the border line. We have had very few instances of corruption among the immigration officials, and they have not been paid any too well. The gentleman from Washington knows that. We have had no trouble with our customs officials. We have had considerable trouble with the type of men we have been appointing in our prohibition department.

If this force is properly commanded, if there is an intelligent and liberal construction of the law, such as directing innocent persons attempting to cross at a wrong place by mistake to the proper point of entry, I believe it may work out very well; but on the other hand, if the same type of man we have had on the border line enforcing the prohibition law is brought into this service, with the same reckless disregard of life and of the attention and courteous treatment that citizens are entitled to, this will cause us a great deal of trouble and annoyance.

Mr. COLE. Will the gentleman yield?

Mr. LAGUARDIA. I yield.

Mr. COLE. Does not the gentleman think we have had about as much smuggling of aliens as we have had smuggling of liquors?

Mr. LAGUARDIA. I think that is exaggerated a great deal, I will say to the gentleman.

Mr. COLE. There are a great many coming across illicitly.

Mr. LAGUARDIA. The immigration force on the border is undermanned; there is no doubt about that.

Mr. COLE. There is no question about it.

Mr. LAGUARDIA. But I will say that with the force the Immigration Service has had they have conducted their service very efficiently.

Mr. COLE. I think that is true.

Mr. LAGUARDIA. And I will tell the gentleman why. It is easy to check up on the number of aliens who enter the country because we know the capacity of all the steamers which enter Canadian waters, as well as American waters, and I think the statement of smuggling of European aliens is greatly exaggerated. Of course, a great many Mexicans enter without inspection and without paying the head tax.

The CHAIRMAN. The time of the gentleman from New York has expired.

The pro forma amendment was withdrawn.

Mr. JOHNSON of Washington. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

> Page 6, line 20, after the word "act," strike out the comma, insert a colon and the following:
>
> "*Provided*, That officers and men transferred from any service to the United States border patrol shall be permitted for one year from the time of transfer to wear the uniforms then owned by them."

Mr. JOHNSON of Washington. I think the amendment explains itself.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington.

The question was taken, and the amendment was agreed to.

Mr. PARKER. Mr. Chairman, I move that all debate on this section and all amendments thereto close in five minutes.

The motion was agreed to.

Mr. PITTENGER. Mr. Chairman, I move to strike out the last two words.

Mr. Chairman and members of the committee, I do not want to discuss this bill at length, because the field of argument for and against it has been fully covered on the floor of this House. I want to register my protest against the passage of this act. I think this is as good a place in the proceedings as any to make that protest.

In legislation such as is here proposed the rights of our people on the border should be considered. Further, the tourist traffic and its importance to the two countries should be protected. The rights of citizens in their social and commercial life should not be infringed.

In my opinion the proposed legislation overlooks all of these important matters. The field of bureaucracy must be widened and developed, regardless of the consequences. This plan was first broached last December. At that time in an interview I said:

> This plan to close the highways to Canada comes as a surprise to me, and I will not indorse it without further information. My district extends for a considerable distance along the Canadian border, and it is only fair that the people affected have a chance to know what Government bureaus plan to do.
>
> I will oppose any move to work additional hardships on people who cross the border on legitimate business enterprises. There has already been much complaint directed at the customs, immigration, and border-patrol regulations, to the effect that they needlessly interfere with people who have lawful business taking them back and forth across the international line. Further, the tourist business in my section of the country is to be considered.
>
> Just why Government bureaus do not consult Members of Congress whose districts are vitally affected by their red tape is something I can not understand. I think it about time that we stop granting unanimous consent to pass appropriation bills and other legislation because some "bureaucrat" has some pet policy to carry out. Then, when they get what they want, the interests of a Congressman and his constituents in the new program are often entirely overlooked or ignored.
>
> I do not mean this as a criticism of all Government departments, for most of them show a willingness to cooperate and render service. However, such is not the case with some departments and bureaus.

I have in mind one bureau which was granted appropriations last spring, and one man under the legislation was given authority to spend the money and make regulations as he pleased. He is now privileged to turn a deaf ear on any concern a Congressman or his district may have in his program or policies or regulations. I hope the necessity will not arise for a committee of Congress to secure redress for those who are vitally interested.

I can see a lot of dangerous possibilities in the plan of Mr. Mills to close the highways to Canada, and it is possible that great inconvenience may be caused many people. I repeat, "Why don't they consult the Members of Congress who live along the border before formulating new bureaucratic rules and regulations?"

I do not want to be misunderstood, so I take occasion to say that this statement is in no way a criticism of the Crime Commission appointed by President Hoover. I think that commission ought to be allowed to finish its work, free from political influence or political interference. That was the purpose when the commission was created and it should not be changed.

I see no reason to change the position I took at that time. This legislation is unwise, unnecessary, and will increase public expenditures without doing any good.

I am sorry that my good friend from Iowa [Mr. COLE], who asked the gentleman from New York [Mr. LAGUARDIA], how many aliens get across the border, a few minutes ago, did not have the opportunity to be present at the committee hearings when the Department of Labor had a representative before the subcommittee in the Committee on Interstate and Foreign Commerce. I hold a copy of the printed hearings in my hand.

I listened to the testimony before that committee while I was waiting to appear before the subcommittee. The immigration authorities very modestly admitted that they had the situation, so far as the law violations of the border were concerned, well in hand. I challenge anybody to question the accuracy of that statement.

For example, Mr. White said in reply to a question as to how many aliens crossing the border unlawfully they did not get, said that the estimate given by the border patrol and the immigration officers along the border was fairly accurate, and it seemed to be the consensus of opinion among them that they only lost 10 per cent. He further said they caught 29,568. He is talking about one year. They figured that 10 per cent of them got by without detection.

As I listened to the hearings before the committee the testimony indicated there never really was any necessity for this legislation. They enforce the law at the border as it is their duty to do, and they do it efficiently.

Mr. STRONG of Kansas. Will the gentleman yield?

Mr. PITTENGER. Yes.

Mr. STRONG of Kansas. Would it not be natural for the officers and men who are enforcing the law to claim that only 10 per cent got by? They do not know how many get by.

Mr. PITTENGER. I do not know whether it would be natural or unnatural or otherwise in this particular matter, but it happens, in my opinion, that they were telling the truth.

Mr. Ogden Mills told us last December that the legislation was for the purpose of closing the highways to Canada. He was telling the truth then. I do not care what rainbow talk may be passed out now or what reasons you may give. The purpose and effect of this legislation is to close highways. I can not understand the working of the human mind that believes in having our people build highways, raise money by taxation to pay for them, continue them up to the border for the purpose of promoting good will between the people of Canada and the United States, and then put an armed force on the border to stop and harass law-abiding citizens.

The proponents of this measure seem to think that the average farmer will carry a copy of this law around in his hip pocket so that he can study it before he starts out on his business on the border. Then the most assinine thing in this new scheme is to establish ports of entry and tell us with a straight face that they will take care of the problem. If there is anybody in this House who thinks that the bootlegger or the smuggler of goods in opposition to the tariff laws of the United States takes them in at a port of entry, then I tell him that he has got the thing all wrong. He is sadly in error.

I know that H. R. 11204 proposes to regulate the entry of persons into the United States and to establish a border patrol. I know it has been rewritten, and I know that various excuses have been given for the passage of such legislation. But I believe that this is one of those bad pieces of legislation which can not be improved by amendment or bolstered up by plausible arguments. It is one of those vicious matters which only become worn the more they are tinkered with and the more plausible the reasons advanced.

There is no necessity for this legislation. So far as I can ascertain, no valid objections can be advanced to the effective work now being done by the immigration authorities and other agencies on the border. I heard part of the testimony before the committee and know that the customs and immigration authorities were willing to admit that they were functioning in a proper manner.

I do not care who wants this new legislation. They are simply being misled by some misguided person who thinks he has achieved a brilliant idea and given birth to some more "cure-all," which will turn out to be nothing but fake patent medicine.

It is ridiculous to build highways and bridges and tax our people for the improvements and encourage fraternal and social intercourse and travel by the people of two great countries, and then undertake to close those highways and say "Thou shalt not pass" except at certain designated points, where you are partly immune from the benign influences and effects of bureaucracy.

This legislation creates a new crime and makes unlawful what is now the perfectly innocent act of crossing the border, when done in a lawful way and for a lawful purpose. I do not take serious the talk about permits, and so forth, for such restrictions only add insult to injury. We have too many laws now of the foolish kind, and this bill proposes to add one more in the nature of a Russianized espionage. It assumes that the people along the border, as well as those who approach that spot, will carry around a copy of the law in their hip pocket for ready reference. Those who fail to do so run the risk of being criminals.

Instead of passing this sort of legislation it would be more sensible to remove some of the present restrictions and encourage intercourse among nations as a means of promoting good will and a friendly spirit.

This proposed legislation looks fine on paper, sounds good from an academic standpoint, but as a matter of fact is bad in principle and will lead to unfortunate results.

It will not change the border problems in any way. Those who violate the laws against smuggling and the laws relating to immigration do not carry on their violations at ports of entry. Those problems will still exist under the new law, if enacted, and with no assurance that matters will be handled any better than at the present time.

But, of course, people who think that the passage of a law is sufficient to solve any problem must have their opportunity to chase the rainbow. Along with it, in the meantime, law-abiding citizens, acting in a lawful manner, must run the risk of committing a crime, of stepping across the border at the wrong place, the tourist business must suffer, and people generally must put up with needless restrictions, permits, and regulations.

I know that the claim is advanced that this legislation is a part of a law-enforcement program, but so far as I can see, it will serve that purpose just about as much as a fifth leg would be of assistance to a dog in performing the act of perambulation.

There is no argument to sustain the lofty purpose of the proposed legislation, and H. R. 11204 ought to be defeated.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

The Clerk read as follows:

SEC. 3. It shall be the duty of the United States border patrol to enforce the provisions of this act against unlawful entry of persons into the United States, except at ocean boundaries of the United States, and to perform, under regulations that may be prescribed by the Secretary of the Treasury, such other duties as are, in his judgment, advisable in connection with the unlawful entry of persons or property into the United States.

Mr. DICKSTEIN. Mr. Chairman, I move to strike out the last word. This has been a year for everybody to pick on the immigrant. One man would vote to cut them down to 50 per cent, another to 90 per cent, while half of them do not know what the whole thing is all about. Up to the present time there is not a claim from the Department of Labor or the Department of State that they can not control the immigration problem. One gentleman a while ago spoke of some 79,000 aliens who had been prevented from coming in. A lot of people endeavored to come in through Canada whose papers were not correct, and they were turned back, and the same applied to Mexico, and they considered those illegal entries. Coming right down to illegal entries, there are mighty few that are absolutely illegal entries. There is no reason to be alarmed by the fact that we can not control the immigration problem. There is no one trying to get into the country who has no right to come in. The only man who gets into the country unlawfully is the bootlegger, and now by this law you are giving him another premium, for he will charge more for his liquor than he does now.

Mr. JOHNSON of Washington. But does not the gentleman know that north of Montana they just unearthed a big underground railroad for European immigrants to come in from the Province of Saskatchewan?

Mr. DICKSTEIN. Oh, the gentleman from Washington is always discovering so many things that I am unable to keep up with them. About two or three years ago he told us that about 10,000,000 wanted to come in here, and then he cut it down to 5,000,000. The gentleman is always picking on the immigrant.

I warn him now that the quicker he quits picking on the foreigner lawfully residing in the United States, with his family, the more peaceful country we will have.

Mr. JOHNSON of Washington. It was the border patrol that picked on this bunch, and not the gentleman from Washington.

Mr. DICKSTEIN. The gentleman makes statements that he is not prepared to substantiate.

Mr. JOHNSON of Washington. Look at the reports.

Mr DICKSTEIN. I have read the reports, and have examined the law. If gentlemen would read the reports, we would not have such contemptible legislation as this brought on the floor of the House. Every now and then some one picks on the foreigner in the United States of America and I am sick and tired of it. And I think that the American people should be sick and tired of it, too.

Mr. STRONG of Kansas. Then I suggest the gentleman take a rest.

Mr. DICKSTEIN. The gentleman is a little older man than I, and I think he will need a rest more quickly and besides he should get a rest after the next election with many more of his colleagues in the House who have helped the farmer and brought about prosperity in this country.

Mr. STRONG of Kansas. But I am not so tired as my friend from New York.

Mr. DICKSTEIN. It is men like the gentleman from Kansas who bring discontent to the people of America by his failure to understand the American problems outside of his own district.

Mr. STRONG of Kansas. I thank the gentleman.

Mr. DICKSTEIN. It is men like the gentleman from Kansas who represent a district that is narrow-minded and bigoted, if the action of the gentleman from Kansas is to be judged and taken for its face value.

Mr. STRONG of Kansas. I thank the gentleman. They are dry and law-abiding districts.

Mr. DICKSTEIN. I am just as dry; I have never taken a drink, but I wonder if the gentleman from Kansas can say as much for himself. However, I will be darned if I would turn around and represent the sentiments of prejudice and bigotry in the Congress of the United States where we all hope that a fair and square deal is guaranteed us by the Constitution of the United States.

Mr. STRONG of Kansas. Oh, do not swear!

Mr. DICKSTEIN. I am not swearing, but I just want to tell the gentleman from Kansas that there is more purity in the thickly populated districts where immigrants reside than in the community the gentleman represents. There is less crime among the foreign population than some of the native residents in the gentleman's district, and the quicker the gentleman will get acquainted with our population in the United States he will feel like many of us feel, that every man, woman, and child has a right to live as long as they are law-abiding, although some of them have not yet become citizens but hope to be, and are really and truly in every sense of the word loyal to their adopted country.

Mr. BOX. Mr. Chairman, I rise in opposition to the pro forma amendment and in support of the bill. I have not been able to understand how men have been able to distort the idea of a peaceful, friendly police force along our borders for the enforcement of our own law into a hostile army. About our homes, with all of their peace, we have police to preserve that peace without being suspected of hostility to our neighbors. Our own roads that pass between our farms and along our shady lanes have policemen to make the minority of lawless people obey the law. We have them in our county, towns, and in our large cities, we have them in our own peaceful meetings. It is only some one who has in his mind the ghost of apprehension born of nothing substantial who can see anything unfriendly in this peaceful effort upon the part of our Government to have its own domestic laws enforced in its own peaceful and friendly way. [Applause.]

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn, and the Clerk will read.

The Clerk read as follows:

Sec. 4. (a) It shall be unlawful for any person to enter the United States from a foreign country at any place other than a point of entry which shall be designated by the President, except that this section shall not be applicable in the case of—

(1) Any person who in entering the United States complies with regulations which shall be prescribed by the President for the convenience of persons residing or owning property on or in the neighborhood or vicinity of the boundaries of the United States;

(2) Any person who in entering the United States complies with the air commerce act of 1926 and the regulations prescribed thereunder.

(b) Any officer or member of the United States border patrol may arrest any person unlawfully entering the United States; may seize any merchandise unlawfully transported into the United States or in the possession of any person unlawfully entering the United States, or any vessel, vehicle, or aircraft, in which such unlawful entry is made; and shall promptly deliver any such person, merchandise, vessel, vehicle, or aircraft into the custody of the appropriate officer.

(c) Any person who violates the provisions of this section shall be guilty of a misdemeanor subject to a penalty of $100. Such penalty shall be a lien against any vessel, vehicle, or aircraft in which the entry in violation of this section is made. Such penalty may be enforced, or may be remitted or mitigated, in the same manner as a penalty for a violation of the customs revenue laws of the United States. Action to enforce the penalty provided in this paragraph shall not be taken if in violating the provisions of this section a penalty (whether criminal or civil) has been incurred for violation of any other law of the United States.

(d) Any vessel or vehicle seized by officers or agents of the Treasury Department and forfeited to the United States as specified in sections 1 and 2 of the act entitled "An act relating to the use or disposal of vessels or vehicles forfeited to the United States for violation of the customs laws or the national prohibition act, and for other purposes," approved March 3, 1925, as amended, may, in the discretion of the Secretary of the Treasury, be taken and used, or may, upon application of the Secretary of the Treasury, be ordered by the court to be delivered to the Treasury Department for use in the enforcement of the provisions of this act instead of for use as provided in such act of March 3, 1925.

Mr HOCH. Mr. Chairman, I offer a committee amendment.

The CHAIRMAN. The gentleman from Kansas offers a committee amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. HOCH: Page 7, line 3, after the words "United States," strike out the semicolon and insert the following: "or for the convenience of persons entering the United States on vessels which under the laws applicable thereto are exempt from reporting arrival or from making formal entry at a customhouse."

Mr. HOCH. Mr. Chairman, this amendment is intended to carry out, or to make clear, the purpose of the provision as to exemptions. Paragraphs (1) and (2) modify the requirement of going to the point of entry as provided under the act. Under present law those who come in on boats of 5 tons or less are not required either to make formal entry or to report arrival at the customhouse. In the case of those yachts of 15 tons or less, which under law are not permitted to carry merchandise or persons for hire, they are not required to make formal entry at the customhouse, but do have to report arrival within 24 hours.

The purpose of this amendment is to carry out the intention of the original language; namely, not to subject to annoyance any who by the present law are exempt from reporting to the customhouse when they come into the country.

Mr. LAGUARDIA. Mr. Chairman, will the gentleman yield?

Mr. HOCH. Yes.

Mr. LAGUARDIA. Is there anything in this bill which changes the existing status of people residing in Canada and employed in the United States?

Mr. HOCH. No.

Mr. LAGUARDIA. We have complaints concerning persons living in Canada, where the cost of living is cheaper than it is here, coming over into this country to work. Does the gentleman intend to provide for that condition?

Mr. HOCH. We have not dealt with that subject at all.

In this connection I would like to repeat what I said in general debate yesterday, in view of the fact that many who are here to-day were not here yesterday. It is not the intention to inconvenience those who lawfully cross the border, but it is the belief of the committee that in the case of a great majority of citizens this will add to the convenience of people lawfully crossing the border rather than adding to their inconvenience.

Mr. LAGUARDIA. There has been complaint that there is a great mass of workers coming from Canada, especially in the building trades.

Mr. HOCH. The committee did not have under consideration the law concerning those who can enter the United States and those who can not.

Mr. CULKIN. Mr. Chairman, will the gentleman yield?

Mr. HOCH. Yes.

Mr. CULKIN. As I understand the intention of the committee, it is to leave the laws now in effect as they are?

Mr. HOCH. Yes. Those who come in boats under exemption from report under present law, in the kind of boats I have mentioned, would under the regulations not be compelled more than heretofore to report at the point of entry.

Mr. CULKIN. They would not have to report if less than 5 tons?

Mr. HOCH. If under the law a man must report to the customhouse, we do not attempt to relieve him of that requirement. Boats of 5 tons or under do not have to report. We do not change that. Boats of 15 tons or less of the character stated do not have to make formal entry. We do not change that. They do have to report arrival, however, within 24 hours after arrival. We do not change that.

Mr. CULKIN. Then it remains as in the present law?

Mr. HOCH. Yes. This bill provides for entry, without report, under regulations. If the owner of one of these small boats becomes a lawbreaker, then it might be possible for the Secretary to withdraw the exemption and say: "This law was made for the benefit of the lawabiding and not for the benefit of lawbreakers."

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. HALE. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for five minutes more.

The CHAIRMAN. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

Mr. HALE. Mr. Chairman, will the gentleman yield?

Mr. HOCH. Yes.

Mr. HALE. What would be the status of an innocent passenger on one of these boats?

Mr. HOCH. The amendment provides for the convenience of persons entering upon boats of that kind, which, of course, includes passengers.

Mr. HALE. But you said that if the operator of a boat of less than 5 tons would become a lawbreaker he might not be exempted. What becomes of the innocent passenger?

Mr. HOCH. I am providing for the innocent passenger to use a boat whose operator is not breaking the law.

Mr. CLANCY. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. There is an amendment pending, offered by the gentleman from Kansas [Mr. HOCH].

Mr. CLANCY. I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Michigan is recognized in opposition to the amendment.

Mr. CLANCY. Mr. Chairman, I wish to sincerely thank the House Interstate and Foreign Commerce Committee for offering this small boats amendment, and I particularly thank the gentleman, Mr. HOCH, who offers it.

I honestly believe I forced this amendment and that it is freely conceded on all sides, except possibly one or two Members who are not willing to admit they were wrong and who may try to claim credit for the amendment.

I will show in the RECORD there was a strong movement to compel all small boats to report, even when they had not obtained merchandise in Canada or Mexico or Cuba.

This amendment does not go far enough. It turns over to the mercy of the Treasury Department the small boats formerly safeguarded by the basic law. Mr. LEHLBACH and I will submit an amendment which is better, but I think Mr. HOCH's amendment will do much to satisfy the small-boat people, especially since Mr. HOCH makes the statement for the RECORD the intention is to allow innocent small boats all the liberties they formerly and do now enjoy.

The Treasury Department has sent a letter to that effect. It is signed by Hon. Andrew Mellon. I have put it in the RECORD.

BIG VESSELS IN DANGER

But what about large boats, over 15 tons burden? They are left in pretty bad shape. Mr. Mellon's letter admits the difficulty. It says many new points of entry must be made in the Great Lakes district. These will be for the convenience, I was informed by the department, for the boats over 15 tons. They will cover yachts over 15 tons which touch a Canadian port and the great fleets of freight and passenger vessels which are compelled to run through Canadian waters and other foreign waters from one American port to another, although no stop is made at a foreign port.

The Hudson bill must be amended to protect large boats. Mr. HOCH has refused absolutely to accept such an amendment and so have the other prohibitionists in charge of the bill. The Lehlbach bill which I drew aims to protect from committing a crime and from fines and seizure these innocent big boats which must pass through Canadian and Mexican and Cuban waters. But the Lehlbach bill will probably be killed by drys who fear the wrath of the Anti-Saloon League. Therefore the Senate should amend the bill in this respect.

I am hoping the big-boat people with their tremendous political influence will defeat the drys in their effort to make this bill terrible in this respect.

You are making a new prohibition crime on the eve of election. This will embarrass many Members. I begged for weeks that this bill be considered in committees, because it can not be adequately considered on the floor of the House. But I was informed that only bootleggers are opposed to the bill.

What a despicable piece of propaganda for the Anti-Saloon League to invent!

But the day is now here when the Anti-Saloon League will have to use other weapons than mere abuse of its critics to put across its program.

MORE DETAILS ON NAVIGATION LAWS

Pardon me if I repeat and emphasize and elaborate on the dangers of the Hudson bill to marine traffic. We have statements from Mr. HUDSON and Mr. HOCH that the border patrol act does not repeal wise and salutary navigation laws which were put on the books purposely after the debate on the floor of this House in 1912 to protect innocent small-boat owners. But Messrs. HUDSON and HOCH ignore the menace to a very important class of boats, a great number of large vessels, and a tremendous amount of freight and passenger tonnage, which are not protected by Mr. HOCH's amendment.

I refer again to the great fleet of passenger and lake vessels carrying much of the iron ore of the world, carrying the wheat and grain and lumber of a large portion of the world, and carrying an enormous tonnage of coal to the upper Lakes. They all go into Canadian waters but do not stop at Canadian ports. They go to a foreign country, and therefore they commit a crime under the provisions of this law unless they report at a port of entry. The Treasury Department admits my contention, I believe.

The Secretary of the Treasury, Hon. Andrew Mellon, sent that important letter to the House the other day clarifying the department's interpretation of the Hudson bill. He used some language about establishing new points of entry on the Great Lakes, and I became suspicious of that language because I thought it meant persecution of the small boats. I inquired at the Treasury and I was told, "No; that is to meet your objection on big boats." The language reads as follows:

> It might be found convenient in certain cases to designate special points of entry for vessels, for example, dock along river boundaries—

And so forth.

It will require 10,000 new points of entry on the Great Lakes and rivers alone, because these boats now stop at any dock, at any village, at any port. Here is an impossible situation, an administrative feat that is impossible. Why bother big boats at all in the Hudson bill?

I am just making the record, and I have been doing so all day for the Senate. Senator VANDENBERG and Senator COUZENS and others have promised hearings. This is bad legislation. It is half-baked legislation in the shape it is now in. The Senate has promised adequate hearings on the bill, and I prophesy that in the next six months the border country is going to pound this new crime that you have made here of an innocent border passage, a new "prohibition crime" affecting millions of people.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Kansas.

The amendment was agreed to.

Mr. O'CONNOR of New York. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

> Amendment offered by Mr. O'CONNOR of New York: Page 7, line 14, after the word "person," insert the words "knowingly and willfully."
>
> Page 7, line 17, after the word "President," insert "with intent to evade or violate the laws of the United States."

Mr. O'CONNOR of New York. Mr. Chairman, I particularly invite the attention of the lawyers of the House to what I am going to say. I would like to have the attention of the distinguished chairman of the Committee on the Judiciary, the distinguished members of that committee, Mr. MICHENER, of Michigan, and the other lawyers of the House. I would like the attention of the distinguished lawyers, Judge MOORE, of Virginia, and Judge BOX, of Texas. I have asked many lawyers of this House, and particularly the ex-judges, if they ever heard of a law making an act a crime where intent or knowledge was not a necessary element. Every one of these gentlemen, Democrats and Republicans, has said he never heard of such a law and could not conceive of the enactment of such a law.

This bill, however, for the first time in the history of American criminal law, makes an act a crime without the element of intent or knowledge. There are two kinds of crimes, namely, felonies and misdemeanors. This bill makes the entry, however innocent, a misdemeanor. All I ask you to insert in the bill is the provision that a man must have knowledge and must have intent before he is held to have committed a crime. If you will adopt that amendment I shall vote for the bill.

Some Members have stated to me privately that the provisions of the bill are similar to those of traffic laws, but they overlook the fact that the ordinary traffic violation is not a crime, a misdemeanor. Such acts are violations of municipal ordinances. Let us be fair in this, particularly the lawyers of the House. Why is it that whenever the prohibition question arises in this body you lawyers forget all about your legal training, you cast to the winds your respect and your love and admiration for the great profession of the law? There is no lawyer present and no man who ever graced a judicial bench of our country, who can gainsay that an indispensable fundamental of a "crime" is knowledge or intent. This bill says, "It shall be unlawful; it shall be a misdemeanor." If you would strike out the word "misdemeanor" it will satisfy me and accomplish the same purpose I propose. I see a number of former judges sitting in front of me now. I appeal especially to them. Judges, let us be fair about this. Let us say that before a man is guilty of any crime he must commit the act with intent; he must do it knowingly. Just because prohibition may be involved in this bill, let us not violate all the principles of fairness and justice. Let us not at one fell stroke wipe out all the traditions of American jurisprudence.

Mr. DENISON. Mr. Chairman, I rise in opposition to the amendment.

Of course, this must be read in connection with the second paragraph of subsection (c) which reads:

> Such penalty may be enforced, or may be remitted or mitigated, in the same manner as a penalty for a violation of the customs revenue laws of the United States. Action to enforce the penalty provided in this paragraph shall not be taken if in violating the provisions of this section a penalty (whether criminal or civil) has been incurred for violation of any other law of the United States.

Now, the gentleman from New York [Mr. O'CONNOR] who ordinarily has very good judgment on matters of this kind, is unduly exercised by this provision, and I am unable to understand why he should be. The language of this provision follows the usual form that is adopted in the enactment of all similar legislation. A State passes a law prohibiting travel on a highway above a certain speed and provides a penalty for doing so. You do not say "A person who willfully, knowingly, and with intention to defeat the laws of the State" does so and so, but, it prohibits the act. The language used here is amply broad to enable the courts to administer the law, without inflicting any undue hardship upon any person who enters innocently, as it is said. The language is expressly selected there so as to take care of any person who may accidently or innocently cross the border. So, I do not think the language proposed should be inserted, because it will, in effect, I think, go a long way toward nullifying one of the purposes of the act. I hope the amendment offered by the gentleman from New York will not be approved.

Mr. LAGUARDIA. Mr. Chairman, I move to strike out the last word.

Permit me to point out to the gentleman from Illinois that he does not answer the argument of the gentleman from New York when he says there is no real necessity for the amendment offered. What the gentleman from Illinois says is applicable to acts which are inherently wrong—malum per se. The law says any person who commits murder shall be punished; any person who commits burglary shall be punished, and intent is necessarily implied, but these are mala per se.

But here we have a purely statutory prohibition. A "malum prohibitum" only, and in the absence of providing that unless it is shown that a person willfully and knowingly enters at another point you place the burden of proof on the innocent trespasser, on the man who may innocently have wandered across an imaginary border line and returned.

Mr. O'CONNOR of New York. Will the gentleman yield?

Mr. LAGUARDIA. Yes.

Mr. O'CONNOR of New York. Even if an innocent trespasser carries the burden of proving he did not trespass with intent or knowingly, he is still guilty of a crime.

Mr. LAGUARDIA. Yes. So this amendment will not in any way weaken what the committee is seeking to do, but it will certainly clarify the situation, and show that the intent of the law is to reach out for persons who are willfully and knowingly violating the provisions of the law or the regulations made thereunder.

Mr. DENISON. How can you prove that?

Mr. LAGUARDIA. By the circumstances of the case. How does a district attorney prove intent in a murder case, motive and deliberation? By the circumstances, of course.

Mr. HOCH. Will the gentleman yield?

Mr. LAGUARDIA. Yes.

Mr. HOCH. It would be just as reasonable to provide that if you violated the speed ordinances here and you could show that you did not knowingly or willfully do so, that then you should not be held guilty.

Mr. LAGUARDIA. That, in the first place, is not a crime, and, in the next place, the overt act speaks for itself. However, that is quite a different proposition. When a man sits before a speedometer and exceeds the speed limit an entirely different situation is presented than where a man may be rowing, may be sailing, may be hunting, may be out strolling, and wanders across the line and then comes back. You could arrest and punish such a man under the provisions of this law. The amendment would make it clear that only willful and intentional acts constitute violations of the law.

Mr. HOCH. The same argument could be made with reference to almost any law. Let me say to the gentleman that a violation of the speed laws carries a more severe penalty than is carried for a violation of the provisions of this law, there being no penalty except a $100 fine.

Mr. LAGUARDIA. The gentleman knows as a lawyer that intent is one of the necessary elements of a crime.

Mr. HOCH. What is the offense here? The offense is simply coming across the border at a place where it is unlawful to do so.

Mr. LAGUARDIA. I think there is a different situation presented between that of a man who violates a speed ordinance and a man who violates the provisions of this law, and, as I have said before, I do not believe the amendment offered by the gentleman from New York would weaken what the committee is seeking to do under this bill.

Mr. CLANCY. Mr. Chairman, I move to strike out the last word. I want to call attention to the fact that our amendment proposes to protect the wise navigation laws now in force for 1,500 miles of the northern boundary and over 900 miles on the southern boundary. You make it a criminal offense to enter foreign waters if upon return you do not go out of your way and report at a designated point of entry.

You make it a crime for a boy to swim or skate across the Detroit River, the St. Clair River, or the St. Marys River or the St. Lawrence River when not reporting on his return. You make it a crime if he crosses an invisible water boundary, though he may not touch the other shore. I refer to practical cases, because I swam or skated over a thousand times across the Detroit River when I was a boy.

Tens of thousands of boys and girls make this innocent passage, and now you make him or her guilty of a crime if he or she crosses the boundary and then attempts to return without going many miles to report in at a designated point of entry. What a mean, vicious piece of legislation!

TROUBLE ON THE LAND BORDER

Let me give you another administrative picture of what the Hudson bill aims to do. Here are your points of entry, from 3 miles apart to 255 miles apart, and here is your patrolman patrolling the border day and night. He picks up a fellow man, woman, or child who has crossed the border possibly only a few feet, and possibly on his farm or across the street in a border tow[illegible]h as Nogales, Ariz., where the main street is the inter[illegible] boundary line. Unless regulations are made to absolu[illegible]ver such a case, it is mandatory for that officer to seize the person and carry him to the point of entry, where the offender will be given a trial.

Remember that the border patrolman can not give the suspect a ticket, as a traffic policeman gives an auto violator a ticket. Although such a person may be innocent of any wrongdoing, the border patrolman must carry or walk that person to the point of entry, and in many cases it will be many miles through the wilderness. From Jackman, Me., to the next point the points of entry are 195 miles apart, and down on the Mexican border they are often a hundred miles apart. In Montana you have got to go through wilderness, and two points of entry are 160 miles apart. The border patrolman places the person under arrest, carries him to a point of entry, and puts him in jail. The trip and trial may take two or three days, and then the innocent offender of a mean law has to travel back home.

He may be seized again and again until he is driven off the border or pays court to possibly a brutal or officious border patrolman.

The Government can not build enough jails to house all the American and Canadian citizens who will be seized if this bill becomes a law as it is now written.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. O'CONNOR of New York rose.

Mr. PARKER. Mr. Chairman, I move that all debate on this amendment close in three minutes.

The motion was agreed to.

Mr. O'CONNOR of New York. Mr. Chairman, ladies and gentlemen of the committee, my reason for taking these three minutes is to reply to the gentleman from Illinois [Mr. DENISON]. The gentleman directs your attention to the fact that this penalty can be remitted. Of course, that is true. The penalty can be remitted, but the crime can not be remitted. The man or woman or child is still a criminal with a record, even though he or she does not have to pay the $100.

That is the fact, and the comparison made by the gentleman of violations of motor vehicle laws is not a parallel at all. Such violations are not ordinarily crimes. The extreme offenses, such as driving while drunk or leaving the scene of an accident, are often made a crime—a misdemeanor or a felony. All of you who are lawyers know that. There can be no dispute about it. The other violations of traffic laws are offenses against municipal ordinances, similar to leaving your garbage can uncovered or to littering the public parks.

Waiving the penalty does not waive the guilt. The boy who swims across the river or the girl who skates across it is still branded as a criminal, even though he or she need not pay the $100.

Another way to cure the outrageous criminal provisions of this bill—and I shall offer such an amendment if my present amendment does not prevail—is to strike out the provision making unlawful entry in and of itself a misdemeanor, and merely provide that such unlawful entry, even though innocent, shall subject the person to a penalty of $100. That is what [illegible] laws. Surely, under those laws you do not make the mere act a misdemeanor. A penalty, civil in its nature, is provided—not a crime.

In all fairness, gentlemen, I submit I am not asking so very much—either add the words "willful intent" or strike out the designation of the offense as a misdemeanor.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. O'CONNOR].

Mr. STAFFORD. Mr. Chairman, may we have the amendment again reported?

The amendment of Mr. O'CONNOR of New York was again reported.

The question was taken; and on a division (demanded by Mr. PARKER) there were—ayes 48, noes 69.

So the amendment was rejected.

Mr. O'CONNOR of New York. Mr. Chairman, I offer another amendment.

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. O'CONNOR of New York: On page 8, line 10, strike out "guilty of a misdemeanor."

The amendment was rejected.

Mr. LEHLBACH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from New Jersey offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. LEHLBACH: On page 7, line 26, strike out the period, insert a semicolon and the following paragraph:

"(3) Any person entering the United States on a vessel which under the laws applicable thereto is exempt, either from reporting arrival or from making formal entry at a customhouse, or which proceeds from one American port or place to another American port or place, through foreign waters, without having touched at any foreign port or place."

Mr. LEHLBACH. Mr. Chairman, I do not care to discuss the merits of this bill and I am not at the present moment concerned with that; but this amendment simply makes the bill and the practice under the bill conform to existing practices with respect to navigation on the rivers and lakes on the border; otherwise, you are inserting certain essential changes in the navigation laws which I do not believe is the intention of the committee, and certainly not the intention of the House, and being concerned, in a way, with merchant marine legislation in this House, I have offered the amendment for the purpost of making this bill conform with existing laws and practices with reference to navigation.

Mr. HOCH. Mr. Chairman, I rise in opposition to the amendment.

We have already adopted an amendment which, it seems to me, fully meets the situation. We have adopted an amendment to add at the end of line 23:

Or for the convenience of persons entering upon any boat, which under existing law, is not compelled either to make formal entry or to report arrival.

This amendment does precisely what the gentleman has suggested. They will be exempt under the regulations. If under present law the boat does not have to report or if it does not have to make formal entry, in either case we have already covered that under the amendment which has been adopted.

Mr. STAFFORD. Will the gentleman yield?

Mr. HOCH. I yield.

Mr. STAFFORD. Assume the case of a pleasure resort passenger boat leaving Detroit going down to Bois Blanc, at the mouth of the Detroit River, which is on the Canadian side, would the gentleman's amendment be broad enough to cover that condition?

Mr. HOCH. In order to answer the gentleman's question I will have to ask him a question. Does the boat he has in mind have to report, under present law, to a custom port of entry?

Mr. STAFFORD. I will yield to the distinguished gentleman from Detroit.

Mr. CLANCY. The gentleman has brought up the case of a large vessel from an American port to a Canadian port. If they do touch land there they must report. That is not the class of boats we are talking about.

Mr. STAFFORD. Then, I do not think the amendment of the gentleman covers that condition.

Mr. HOCH. Undoubtedly, if they do not have to report to a customhouse they are covered by the amendment adopted.

Mr. STAFFORD. I am in sympathy with the amendment offered by the gentleman from New Jersey. I do not know whether the amendment adopted by the House is broad enough or not, but I know of many merchant vessels going across the border line in Lake St. Clair and getting into Canadian waters and then coming back.

Mr. HOCH. Vessels which under existing law do not either have to make formal entry at a custom port or report arrival—if they do not have to report or make entry then they will be exempt. On the other hand, if they must report under present law, or make formal entry they would not be exempt. We do not want in this law to provide that they would not have to report, for that would be a change of the navigation laws or the customs laws.

Mr. CLANCY. The existing law does not make it a crime, because the penalty does not provide for the confiscation or the seizure or the sale of the vessel. Take a large ship and cargo worth possibly a million dollars, when it crosses through Canadian water it does not touch a Canadian port, and it is therefore not able to take on passengers and merchandise.

Now the gentleman comes along with language which says it is a crime for a vessel to enter waters of a foreign territory if it does not report at a designated port of entry upon return to American waters, and when it does not touch a foreign port.

I claim just that, and I think the Treasury Department admits my contention. They are up against it if you pass this bill as it is.

Now the amendment of the gentleman from Kansas [Mr. HOCH] covers small boats of less than 15 tons. I will say that the gentleman has been very kind in agreeing to this amendment, but, as I said before, the three Members who drew up this amendment live in the interior of the country. The gentleman from Oklahoma, the gentleman from Kansas, and the gentleman from Missouri can not be expected to know our technical and difficult border conditions.

Mr. HOCH. The gentleman is mistaken about that.

Mr. CLANCY. In this bill you are making a crime of an innocent act which was not a crime before. The mere entering of Canadian waters constitutes a crime if the offender does not report to a point of entry. The Canadian channel is the one that the big vessels use on the Detroit River and several border rivers. If we ever get the St. Lawrence waterway this terrible law will make it a crime for all Americans who travel over that waterway if they do not report to a designated American point of entry, for the channel runs through Canadian waters.

Now the Interstate and Foreign Commerce Committee does not handle nor prepare navigation laws for the House. They propose to change these laws but they never even got a report from the Department of Commerce, which is required to report to the House on such changes in the navigation laws.

Secretary Mellon urged in his letter to consult Canada and Mexico, but your committee never did that. They never even consulted the American State Department.

What do the drys care about good relations with Canada and Mexico?

But think of American business using the Great Lakes. If you want to be fair to the iron and steel companies, to the coal people, to the farmers who raise the wheat, you should adopt this Lehlbach amendment.

If you do not, you make yourselves ridiculous by sending such an unfair and unwise bill to the Senate. You are going to be pounded for six months by the innocent people injured by this bill. The Lake Carriers' Association will be informed of the bad provisions in this bill, and I hope to see this great maritime association use its powerful influence to amend this bill in the Senate.

Mr. STAFFORD. Is it not a fact that all colliers going up and down the Lakes go into Canadian waters?

Mr. CLANCY. Certainly. More ship tonnage passes Detroit than any other place in the world. More tonnage passes Detroit than goes through the Panama and the Suez Canal together, and I might add than enters the ports of Liverpool and London put together.

Mr. STAFFORD. In going through that channel they are using the Canadian channel.

Mr. CLANCY. They have to take to deep water, which is Canadian territory.

Mr. STAFFORD. Between Belle Island and Ford's plant.

Mr. HOCH. Is the boat the gentleman has in mind compelled under the present law to report to a customhouse?

Mr. CLANCY. Possibly in a technical and mistaken sense. Mr. Frank Dow, Assistant Commissioner of the Customs Bureau and expert, told me the other day when I inquired on this point that entry of Canadian waters might make a report necessary but he referred me to the Commerce Department and the expert there, Mr. Tyrer, Commissioner of the Bureau of Navigation said, "Distinctly not. The boat must proceed from a foreign port to compel report and customs entry."

Mr. HOCH. Then the gentleman wants us to change the law and provide that a boat which he says technically has to report will not have to report. He wants to give them an exemption they do not now have.

Mr. CLANCY. Members never knew when Congress drafted the law covering the report of boats from foreign waters that bureau officials might construe the law to cover all such [illegible] in mind, but Congress knows it now. You now have guilty knowledge, and with that knowledge it might be argued you intend to punish those big boats if you leave the law as it is. Anyway, you make a new crime of the Canadian water passage of the boat.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. PARKER. Mr. Chairman, I ask unanimous consent that all debate upon this section and all amendments thereto close in five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. HOCH. Mr. Chairman, I repeat again that the amendment already adopted is as broad as one can word it, to cover all boats which under the present law do not have to report arrival, or do not have to make formal entry, and the gentleman from Michigan suggests that we are changing the navigation laws. I submit that by his answer to my question, he has revealed that he is seeking to change the navigation laws. He is trying to bring in a boat which, under the present law, technically, does have to report, so that hereafter it will not have to report. We want to leave the navigation laws as they are, and we want to leave any boat that has to report to a customhouse so that it will have to do it under this law. We do not want to change the law. If this boat, which the gentleman has in mind, does have to report under the present law; then we do not want to disturb that, and we want that boat to keep on reporting to the customhouse.

Mr. LEHLBACH. Mr. Chairman, will the gentleman yield?

Mr. HOCH. Yes.

Mr. LEHLBACH. Here is the situation. It is discovered now that a boat, which everyone believes did not have to report, technically is subject to report, if it sails along the channel and goes into Canadian waters and then comes back, although it does not touch at a Canadian port.

Not only that, but the practices of the navigation and customs are that that boat does not report, and nobody wants it to report. Technically, however, under the law, it has to, and if you pass this bill without this amendment, then every such boat and person must report where they do not have to now, and to no good reason.

Mr. HOCH. Then the gentleman admits that he is seeking to change the navigation laws?

Mr. LEHLBACH. I am seeking to have the navigation law as it is, because a law that is dead does not bother anybody. Now you are revivifying it and making it a source of nuisance.

Mr. HOCH. We are not changing the law in any particular.

Mr. CLANCY. What we are trying to do is to relieve these innocent persons in these innocent boats from being guilty of a crime.

Mr. HOCH. I do not yield any further.

Mr. CLANCY. How does the gentleman explain that language of Secretary Mellon referring to docks, and so forth, as new points of entry?

Mr. HOCH. I suggest in all good feeling to the gentleman from New Jersey that if the navigation law has some dead law in it, that that is work for his committee and not for ours.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey.

The amendment was rejected.

Mr. JOHNSON of Washington. Mr. Chairman, I offer an amendment in the nature of a new section, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. JOHNSON of Washington: After section 4, line 6, page 9, insert a new section, to be known as section 4½, and to read as follows:

"No person in the civil service transferred from any service to the United States border patrol shall lose any civil-service rating carried by him to the date of his transfer."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk concluded the reading of the bill.

The CHAIRMAN. Without objection, the Clerk will correct the numbering of the sections by reason of the addition of section 4½.

There was no objection.

The CHAIRMAN. The question is on the committee amendment to the bill as amended.

The amendment was agreed to.

The CHAIRMAN. Under the rule the committee will rise and report the amendment to the House.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. CRAMTON, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 11204, and reported the same back to the House with an amendment, with the recommendation that the amendment be agreed to and that the bill as amended do pass.

Mr. PARKER. Mr. Speaker, I move the previous question.

The SPEAKER. Under the rule the previous question is ordered. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

Mr. BOYLAN rose.

The SPEAKER. For what purpose does the gentleman from New York rise?

Mr. BOYLAN. I rise to make a privileged motion. I move that the bill be recommitted to the Committee on Interstate and Foreign Commerce, with instructions to the committee to strike out the enacting clause.

The SPEAKER. The Chair does not think that the committee has authority to strike out the enacting clause.

Mr. PARKER. Mr. Speaker, I make a point of order on that.

Mr. HOCH. I make a point of order, Mr. Speaker.

The SPEAKER. In the opinion of the Chair the motion to recommit is not in order. The question is, Shall the bill pass?

The question was taken; and on a division (demanded by Mr. O'CONNOR of New York and Mr. BOYLAN) there were—ayes 181, noes 52.

Mr. O'CONNOR of New York. Mr. Speaker, I demand the yeas and nays.

The SPEAKER. The gentleman from New York demands the yeas and nays. Those in favor of taking the vote by yeas and nays will rise and stand in their places. [After counting.] Thirty-nine Members have risen—not a sufficient number.

So the bill was passed.

On motion of Mr. PARKER, a motion to reconsider the last vote was laid on the table.

The title of the bill was amended.

71st Congress, 3d Session - - - - - House Document No. 722

ENFORCEMENT OF THE PROHIBITION LAWS OF THE UNITED STATES

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A REPORT OF THE NATIONAL COMMISSION ON LAW OBSERVANCE AND ENFORCEMENT RELATIVE TO THE FACTS AS TO THE ENFORCEMENT, THE BENEFITS, AND THE ABUSES UNDER THE PROHIBITION LAWS, BOTH BEFORE AND SINCE THE ADOPTION OF THE EIGHTEENTH AMENDMENT TO THE CONSTITUTION

JANUARY 20, 1931.—Referred to the Committee on Judiciary and ordered to be printed

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UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1931

MESSAGE

To the Congress:

The first deficiency appropriation act of March 4, 1929, carried an appropriation for a thorough investigation into the enforcement of the prohibition laws, together with the enforcement of other laws.

In pursuance of this provision I appointed a commission consisting of former Attorney General George W. Wickersham, chairman, former Secretary of War Newton D. Baker, Federal Judges William S. Kenyon, Paul J. McCormick, and William I. Grubb, former Chief Justice Kenneth Mackintosh of Supreme Court of Washington, Dean Roscoe Pound of Harvard Law School, President Ada L. Comstock of Radcliffe College, Henry W. Anderson of Virginia, Monte M. Lemann of New Orleans, and Frank J. Loesch of Chicago.

The commission thus comprises an able group of distinguished citizens of character and independence of thought, representative of different sections of the country. For 18 months they have exhaustively and painstakingly gathered and examined the facts as to enforcement, the benefits, and the abuses under the prohibition laws, both before and since the passage of the eighteenth amendment. I am transmitting their report immediately. Reports upon the enforcement of other criminal laws will follow.

The commission considers that the conditions of enforcement of the prohibition laws in the country as a whole are unsatisfactory but it reports that the Federal participation in enforcement has shown continued improvement since and as a consequence of the act of Congress of 1927 placing prohibition officers under civil service, and the act of 1930 transferring prohibition enforcement from the Treasury to the Department of Justice, and it outlines further possible improvement. It calls attention to the urgency of obedience to law by our citizens and to the imperative necessity for greater assumption and performance by State and local governments of their share of responsibilities under the "concurrent enforcement" provision of the Constitution if enforcement is to be successful. It recommends that further and more effective efforts be made to enforce the laws. It makes recommendations as to Federal administrative methods and certain secondary legislation for further increase of personnel, new classification of offenses, relief of the courts, and amendments to the national prohibition act clarifying the law and eliminating irritations which arise under it. Some of these recommendations have been enacted by the Congress or are already in course of legislation. I commend these suggestions to the attention of the Congress at an appropriate time.

IV

The commission, by a large majority, does not favor the repeal of the eighteenth amendment as a method of cure for the inherent abuses of the liquor traffic. I am in accord with this view. I am in unity with the spirit of the report in seeking constructive steps to advance the national ideal of eradication of the social and economic and political evils of this traffic, to preserve the gains which have been made, and to eliminate the abuses which exist, at the same time facing with an open mind the difficulties which have arisen under this experiment. I do, however, see serious objections to, and therefore must not be understood as recommending, the commission's proposed revision of the eighteenth amendment which is suggested by them for possible consideration at some future time if the continued effort at enforcement should not prove successful. My own duty and that of all executive officials is clear—to enforce the law with all the means at our disposal without equivocation or reservation.

The report is the result of a thorough and comprehensive study of the situation by a representative and authoritative group. It clearly recognizes the gains which have been made and is resolute that those gains shall be preserved. There are necessarily differences in views among its members. It is a temperate and judicial presentation. It should stimulate the clarification of public mind and the advancement of public thought.

HERBERT HOOVER.

THE WHITE HOUSE,
January 20, 1931.

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NATIONAL COMMISSION ON LAW OBSERVANCE AND ENFORCEMENT

REPORT
ON THE ENFORCEMENT OF THE PROHIBITION LAWS OF THE UNITED STATES

DATED JANUARY 7, 1931

LETTER OF SUBMITTAL

JANUARY 15, 1931.

THE PRESIDENT,
The White House,
Washington, D. C.

DEAR MR. PRESIDENT: I take pleasure in handing you the report of this Commission on the subject of "the problem of the enforcement of the prohibition laws of the United States", together with separate individual statements of the respective members of the Commission.

I have the honor to be,
Very truly yours,
GEO. W. WICKERSHAM,
Chairman.

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V

PLANS WHICH HAVE BEEN PROPOSED TOWARD MORE EFFECTIVE ENFORCEMENT

A very large number of plans for more effective enforcement of the law as it stands have been proposed in books, pamphlets, or articles, have been put before us by witnesses, or have been suggested to us in letters. These plans may be grouped conveniently under eight heads.

1

PARTITION OF THE FIELD OF ENFORCEMENT BETWEEN NATION AND STATE

Many plans provide for legislation dividing the field between the federal government and the states. Usually they contemplate national abdication of part of the jurisdiction provided by the Eighteenth Amendment, leaving that part to the states, perhaps with the help of the federal government where prohibition exists by state law. When put as a general proposition, this seems plausible. It may be said that things which are naturally of federal cognizance, things which were of federal cognizance under our traditional pre-prohibition polity, are to be retained by the federal government; while those things which prior to the Eighteenth Amendment belonged to the states are to be left to them. But this policy is not easy of execution when it comes to details. The plans vary significantly. The subjects to be kept within federal jurisdiction are said to be importations from outside the United States, interstate transportation, illegal manufacture or diversion on a large scale, interstate organizations of illicit traffic or conspiracies to violate the law, and sometimes, in addition, open saloons. With respect to importation from abroad, some would have the federal government deal with all such importation while others would confine federal activity to importation into states having prohibition laws. Likewise, as to interstate transportation, some would have the federal government retain jurisdiction over it as a whole, while some would confine it to transportation over interstate highways and others to transportation (whether general or over interstate highways) into states having state prohibition laws.

As to illegal manufacture and diversion, some would confine federal activity to large scale operations, some to commercial operations, and some to such things when carried on in states having state prohibition laws. To such programs, some add a federal jurisdiction over conspiracies, and others add federal repression of open saloons, although the latter is not a subject of natural or traditional federal cognizance. The present program of the Bureau of Prohibition seems to be to confine federal activity to importation, interstate commercial transportation, and commercial manufacture and diversion.

It will be seen that some of the plans are framed with a view to more effective enforcement by doing away with overlapping activities, while others are devised with a view to a policy of federal hands-off in states where there is disinclination or hostility towards enforcement.

From either standpoint, there are serious objections to this type of plan. It gives up the policy of concurrent jurisdiction expressly laid down in the Eighteenth Amendment and adopts a fundamentally different system. This is legally possible. But if the amendment is to be modified, we think that should be done directly and avowedly rather than by indirection.

Secondly, it gives up in effect the policy of the Eighteenth Amendment in whole or in part as to all states which decline to act or are indifferent. If this is to be done, we think it ought to be done directly under warrant to the Constitution and not by way of nullification thereof.

Thirdly, it gives up the announced policy of the National Prohibition Act as to any state which chooses to do nothing, or little or nothing, with respect to that part of the program of the Eighteenth Amendment abdicated by the federal government. If it is sought to guard this abdication by retaining federal jurisdiction to the extent of federal repression of open saloons, it must be observed that such saloons are not within the natural or traditional field of federal action. Yet the circumstance that it is felt necessary to guard against the return of saloons in states where the power given up by the federal government remains unexercised, shows the recognized need of a federal power beyond what existed before the amendment.

A part from these considerations, such partitions are hardly practicable. There is grave difficulty in defining large-scale manufacture. There is difficulty in drawing the line as to what is commercial manufacture and transportation. It will be very difficult to define the organizations and conspiracies to be dealt with by federal agencies. For example, is jurisdiction to be determined by the composition or by the operations of the organization? Such a partition, if made by law, is likely to involve jurisdictional difficulties of a sort that always interfere with effective enforcement of law. It will be hard to eliminate overlapping enforcement without raising jurisdictional questions, and, except as a means of local nullification, the partition would not be worth while unless it eliminated such overlappings. This type of plan carries with it the same difficulties which are encountered in securing state cooperation under the existing system.

2

BETTER ORGANIZATION OF ENFORCING AGENCIES

Most of the plans of this type antedate the Prohibition Reorganization Act of 1930 and the better organization which now obtains. A few call for special consideration.

It has been urged that coordination between the several independent investigating agencies of the federal government could be brought about by designation of a special secretary to the President charged with that task. This is an administrative measure not requiring legislation, and comes to a matter of executive judgment as to the relative weight to be given to the enforcement of prohibition in the whole process of government. To add to the direct burdens of the President and specialize executive attention upon the administration of one law is obviously unwise.

A unified federal police has also been urged. From the standpoint of a highly centralized federal enforcement of prohibition, reaching into the details of violation and seizures in every part of the land, this might be more effective. But Americans have a strong and justified traditional antipathy to over-centralization. Any considerable federal policing is wholly at variance with the general spirit of our Constitution. Indeed, the Constitution permits it at all only as an incident of certain granted powers. Moreover, the political possibilities of such a force, reaching into every community are disquieting.

3

MORE ADEQUATE FORCE AND EQUIPMENT

There is substantial agreement among all who have looked into the subject that the federal prohibition force is very much too small in number for the work it has to do. Estimates as to the number required to make it reasonably effective vary greatly.

Experienced prohibition administrators (prior to the transfer) are in agreement as to the need of a very large number of additional agents and investigators. One of them, referring to a large city in a state having a state law, which the state does not enforce, considered that for reasonable enforcement in that one locality, he would need 50 agents and 10 investigators, and that this " would not make it absolutely dry ". Another, referring to a large city in a state having no state law, considered that reasonable enforcement in that city would require 200 agents. Also the chief of the state police, in a state having a state law, considers that to bring about reasonable enforcement in his state, there should be 1,000 federal prohibition agents and 200 more state police in that jurisdiction alone.

In contrast with these views of those immediately in contact with enforcement in the field, the authorities at Washington have consistently maintained that a much smaller increase in number would suffice. The Prohibition Administrator is asking for 500 more prohibition agents, about one-third more than the present force. His reason for not calling for more, namely, that 500 additional are as many as he can hope to train adequately within the term of the appropriation, has much force. But it should be remarked that his figure assumes practical federal abdication of an important part of federal jurisdiction under the amendment and federal acquiescence in state nullification. Moreover, the slow building up of an adequate and well-trained force presupposes a considerable further period of experiment during which the deficiencies of the present situation will continue.

Between these extremes our conclusion is that there should be 60 per cent more agents and 60 per cent more storekeeper-gaugers that the number of prohibition investigators and special agents should be doubled, that there should be a proportionate increase in the Customs Bureau, and in the equipment of all enforcement organizations, and that the number of assistant district attorneys should be increased.

4

IMPROVEMENTS IN THE STATUTES AND REGULATIONS

A number of plans or suggestions submitted to us have to do with improvements in the statutes and regulations. It has been urged upon us by those charged with enforcing prohibition in many parts of the country that the several statutes governing the subject are much in need of being put in order, revised and simplified. This does not mean that all of the 25 or more statutes bearing on the enforcement of national prohibition, enacted at various times during forty years, many of them much antedating the Eighteenth Amendment, are to be taken out of their setting in the United States Code and put in a special prohibition code to the disorganization of the law on the subjects with which they had to do primarily. But, as they stand, they are in need of coordination and adjustment to each other. More than this, however, there is real need of revising and digesting the National Prohibition Act, and the acts supplemental to and in amendment thereof, with a view of putting it in a simpler, better ordered, and more workable condition. The original statute has been amended or supplemented by the Willis-Campbell Act (1921), the Act to create the Bureau of Prohibition (1927), the Increased Penalties Act (Jones Law, 1929), the Storekeeper-Gauger Act (1929), and the Prohibition Reorganization Act (1930). These acts have been superposed one upon another, and all upon the original act, in such a way that it is difficult at times to make out what is the effect as to particular details. The subject is discussed more fully in our report supplemental to the preliminary report submitted to the President on November 21, 1929 (71st Congress, 2nd Session, H. R. Doc. No. 252, p. 13). It is enough to say that the Bureau of Prohibition (before the transfer) was at work on the redrawing of the statute to remedy this situation. We think this work ought to be resumed, and that the whole series of statutes, with such amendments as may be called for towards better enforcement, should be put into a single, thoroughly revised statute.

Some have urged upon us the importance of uniform state laws. Undoubtedly the state laws are very diverse. But a uniform state law in aid of the National Prohibition Act could hardly be procured to be enacted in a number of the most populous states. Nor does it seem feasible as to the remaining states. Local conditions are so divergent, and local public opinion differs so greatly in different parts of the land, that it would take a long time to work out a satisfactory uniform state law and still longer to procure general enactment of it. The relative failure of attempts to procure enactment in the several states of statutes copying the National Prohibition Act with such adaptations as state constitutions might require, is a sufficient testimony on this point. It is doubtful if the advantages of a movement for uniform state laws would be enough to justify the effort.

IX

THE PROPOSED ALTERNATIVES TO THE PRESENT SYSTEM

Proposals other than for going ahead substantially as things are may be considered under four heads:

(1) To repeal the Eighteenth Amendment, (2) to repeal or modify the National Prohibition Act, leaving the Eighteenth Amendment as it is, (3) to cure proved defects in the National Prohibition Act and supplemental legislation by further legislation, to go on with the development and improvement of the organization and personnel of federal enforcement, and to await results, and (4) to revise the Eighteenth Amendment.

1

REPEAL OF THE EIGHTEENTH AMENDMENT

Hereinbefore we have given our reasons for the conclusion that repeal of the Eighteenth Amendment is not advisable. We are convinced that it would be a step backward, that it would not conserve the achieved benefits of national prohibition, and that it would be likely to lead to conditions quite as bad as those we are seeking to escape.

2

REPEAL OR MODIFICATION OF THE NATIONAL PROHIBITION ACT

Repeal of the National Prohibition Act would amount to nullification of a constitutional provision. As the efficacy of the Eighteenth Amendment depends so much upon the action of the states, it is evident that repeal of the federal statute in effect would put things back where they were before the amendment, leaving it to each state to provide such system of prohibition, or regulation, or want of regulation, as it chose, subject to the difficulty that any system of state regulation must not be in conflict with the federal Constitution. Thus, as a practical matter, the states would be left to choose between state prohibition, state hands-off and a free traffic, or a camouflaged state regulation, not subject to attack as in conflict with the Eighteenth Amendment, and yet effectively substituting the regime which the amendment is designed to supersede. The bad features and bad possibilities involved in such a course are manifest. In our opinion it is even less to be thought of than repeal of the amendment. It would not be honest.

Many plans have been submitted for modification of the National Prohibition Act so as to permit the manufacture and sale of beer of an alcoholic content of not more than 2.75 per cent. by volume, and of light wines. There is much evidence that beer of this con-

As to the proposed exception of light wines from the operation of the National Prohibition Act, the same considerations apply. But it should be said, also, that the anomalous provision in Section 29 of the Act, heretofore discussed, is closely related to this proposal. If that section, as construed, is to stand, it would probably achieve most of what the advocates of legal making of light wines are seeking.

Other plans for legislation, leaving the Eighteenth Amendment as it stands, propose state option as to prohibition, evasion of the intent of the amendment by allowing beverage liquor under the exemption of medicinal liquor, evasion by Congressional definition of "intoxicating liquor" so as to exclude liquor which is in fact intoxicating, and statutory exemption of all home manufacture for home use.

These proposals involve *pro tanto* nullification of the Eighteenth Amendment. The proposal as to state option is open to the objections to the repeal of the Eighteenth Amendment already considered, with the added objection that it would in substance leave it to the states to determine whether a general provision of the federal Constitution should obtain within their borders. Evasion of the federal Constitution by specious definitions of "intoxicating" or of "medicinal liquors" or by specious provisions for the procuring of medicinal liquor, undermining by legal action respect for the fundamental law, is quite as destructive of respect for law as the things sought to be avoided. As to home manufacture, the difficulties in differentiating between manufacture for domestic and for commercial purposes and of detecting commercial manufacture in homes, would make such a system as hard to maintain as the present one.

3

DEVELOPMENT AND IMPROVEMENT OF ORGANIZATION AND PERSONNEL

In a number of particulars it must be pronounced that there has not been the kind of test of enforceability of national prohibition which would have been desirable. As has been said, enforcement started out with the idea that a federal law would largely command observance, and hence no adequate provision was made for a task of such magnitude as it has proved to be. It began by using methods and agencies which had proved effective in four generations of federal government under the Constitution. The assumption was that any strain upon these methods would be taken care of by the concurrent enforcing jurisdiction of the states. Thus the mechanics of enforcement fell short of the requirements of the task in three respects: (1) the organization, personnel, and training of the agents of enforcement; (2) the federal prosecuting organization and organization of the federal courts; (3) the means of insuring concurrent or cooperative action by the states.

At the outset, the best part of the enforcement organization was made up of those who had been in the Internal Revenue service, or some like service, before prohibition. But development of methods of manufacture of alcohol speedily outgrew the experience and training of storekeeper-gaugers brought up under the old method of distilling. The development of illicit distilling soon quite outstripped the experience of those who had had to do with pre-prohibition moonshining. Organized smuggling quickly outgrew the experience and equipment of those who had been trained under the old conditions in the customs service. The organization, mode of selection and recruiting, personnel management and personnel, and the mode of training in the services charged with or having to do with enforcement of national prohibition, as they were at first, were not equal to the demands of these rapid developments of organized law-breaking.

It is worth while to repeat that changes in the fundamental organization, fluctuating personnel, low salaries, methods of appointment and recruiting ill adapted to the work to be done, and lack of adequate training led to bad results at the start of enforcement the effects of which are still manifest in some quarters.

Again it was only perceived gradually that there was need of special activity in coordinating the federal services directly and indirectly engaged in enforcing prohibition and of special effort to bring about coordination between them. Past experience with other laws had not indicated the need of such things. It was not until after the Senate investigation of 1926 had opened people's eyes to the extent of law-breaking and corruption that serious efforts were made in this direction. In the past few years, a great deal has been achieved toward coordination of and cooperation between the several administrative agencies. In the meantime organized law-breaking had grown strong and much mischief had resulted.

In view of this bad start, of the defective organization, unsatisfactory personnel, and insufficient equipment, and of the want of coordination among the agencies concerned, it is no wonder that there was a steady decline in the enforcement of prohibition from 1921 to 1927. Unfortunately, this steady decline gave an impetus to the illicit traffic which makes it hard for any organization and personnel to cope with it.

It may be urged that the bad features of enforcement, or nonenforcement, which obtain today may be obviated with the lapse of time and certain improvements in the machinery of enforcement, through improved enforcement personnel, divorce of enforcement from politics, provision of more men, more money, and better equipment for the enforcing agencies, and certain amendments of the statutes and of the administrative regulations.

On the other hand, it may be urged that the primary difficulties in the way of enforcement lie deeper than these things. The statute has been in force for a decade with large majorities in Congress pledged to give effect to it and militant organizations pushing to that end. There has been more sustained pressure to enforce this law than on the whole has been true of any other federal statute, although this pressure in the last four or five years has met with increasing resistance as the sentiment against prohibition has developed. No other federal law has had such elaborate state and federal enforcing machinery put behind it. That a main source of difficulty is in the attitude of at least a very large number of respectable citizens in all communities, and of a majority of the citizens in most of our large cities and in several states, is made more clear when the enforcement of the National Prohibition Act is compared with the enforcement of the laws as to narcotics. There is an enormous margin of profit in breaking the latter. The means of detecting transportation are more easily evaded than in the case of liquor. Yet there are no difficulties in the case of narcotics beyond those involved in the nature of the traffic because the laws against them are supported everywhere by a general and determined public sentiment. Hence a program of improvement should be directed also toward a more favorable public opinion.

As to the possibilities of a much better personnel, it should be noted that improvement has been made of late. But there is a difference of opinion as to how far the requisite personnel will be possible, as something enduring and continuous, under our polity. It is to be wished that a divorce from politics might be brought about in large measure as to all enforcement of law. But, as a thoroughgoing change in our established methods, it must come slowly as to any of the activities of government. The methods, so well developed in recent years, which are practicable in a private industrial organization are not wholly applicable in the management of political affairs of 120,000,000 people.

More men, more money, and more and better equipment for the enforcing agencies would undoubtedly achieve much but no improvement in machinery will avail without cooperation from the states. This state cooperation will ultimately depend upon local public opinion. So long as public opinion is adverse or indifferent in large cities and in many states, so long as there is no practicable means of reaching home manufacture (which may easily run into commercial manufacture), and so long as the margin of profit remains what it is, serious obstacles in the way of satisfactory enforcement will continue to be beyond the reach of improved organization personnel and equipment and tightened statutory and administrative provisions.

4

REVISION OF THE EIGHTEENTH AMENDMENT

A great variety of detailed plans, assuming modification or revision of the Eighteenth Amendment, have been proposed or submitted. In general they are of four types. One type contemplates federal control, whether by legislation, by a permit system, by a federal bureau or by a federal commission, and manufacture, distribution and sale by a federal monoply or by general and local corporations under federal control. A second type contemplates state option under federal control. A third type contemplates state control by allowing the states to define the meaning of "intoxicating liquor". A fourth type contemplates a dispensary system or some equivalent system of distribution.

Plans of the third type are objectionable as allowing the return of saloons in states choosing to permit a high alcoholic content, since the liquor being legally declared non-intoxicating would not be subject to the police power and so to regulations as to sale and consumption.

X

CONCLUSIONS AND RECOMMENDATIONS

1. The Commission is opposed to repeal of the Eighteenth Amendment.

2. The Commission is opposed to the restoration in any manner of the legalized saloon.

3. The Commission is opposed to the federal or state governments, as such, going into the liquor business.

4. The Commission is opposed to the proposal to modify the National Prohibition Act so as to permit manufacture and sale of light wines or beer.

5. The Commission is of opinion that the cooperation of the states is an essential element in the enforcement of the Eighteenth Amendment and the National Prohibition Act throughout the territory of the United States; that the support of public opinion in the several states is necessary in order to insure such cooperation.

6. The Commission is of opinion that prior to the enactment of the Bureau of Prohibition Act, 1927, the agencies for enforcement were badly organized and inadequate; that subsequent to that enactment there has been continued improvement in organization and effort for enforcement.

7. The Commission is of opinion that there is yet no adequate observance or enforcement.

8. The Commission is of opinion that the present organization for enforcement is still inadequate.

9. The Commission is of opinion that the federal appropriations for enforcement of the Eighteenth Amendment should be substantially increased and that the vigorous and better organized efforts which have gone on since the Bureau of Prohibition Act, 1927, should be furthered by certain improvements in the statutes and in the organization, personnel, and equipment of enforcement, so as to give to enforcement the greatest practicable efficiency.

10. Some of the Commission are not convinced that Prohibition under the Eighteenth Amendment is unenforceable and believe that a further trial should be made with the help of the recommended improvements, and that if after such trial effective enforcement is not secured there should be a revision of the Amendment. Others of the Commission are convinced that it has been demonstrated that Prohibition under the Eighteenth Amendment is unenforceable and that the Amendment should be immediately revised, but recognizing that the process of amendment will require some time, they unite in the recommendations of Conclusion No. 9 for the improvement of the enforcement agencies.

11. All the Commission agree that if the Amendment is revised it should be made to read substantially as follows:

> Section 1. The Congress shall have power to regulate or to prohibit the manufacture, traffic in or transportation of intoxicating liquors within, the importation thereof into and the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes.

12. The recommendations referred to in conclusion Number 9 are:

1. Removal of the causes of irritation and resentment on the part of the medical profession by:

(a) Doing away with the statutory fixing of the amount which may be prescribed and the number of prescriptions;

(b) Abolition of the requirement of specifying the ailment for which liquor is prescribed upon a blank to go into the public files;

(c) Leaving as much as possible to regulations rather than fixing details by statute.

2. Removal of the anomalous provisions in Section 29, National Prohibition Act, as to cider and fruit juices by making some uniform provision for a fixed alcoholic content.

3. Increase of the number of agents, storekeeper-gaugers, prohibition investigators, and special agents; increase in the personnel of the Customs Bureau and in the equipment of all enforcement organizations.

4. Enactment of a statute authorizing regulations permitting access to the premises and records of wholesale and retail dealers so as to make it possible to trace products of specially denatured alcohol to the ultimate consumer.

5. Enactment of legislation to prohibit independent denaturing plants.

6. The Commission is opposed to legislation allowing more latitude for federal searches and seizures.

7. The Commission renews the recommendation contained in its previous reports for codification of the National Prohibition Act and the acts supplemental to and in amendment thereof.

8. The Commission renews its recommendation of legislation for making procedure in the so-called padlock injunction cases more effective.

9. The Commission recommends legislation providing a mode of prosecuting petty offenses in the federal courts and modifying the Increased Penalties Act of 1929, as set forth in the Chairman's letter to the Attorney General dated May 23, 1930, H. R. Rep. 1699.

There are differences of view among the members of the Commission as to certain of the conclusions stated and as to some matters included in or omitted from this report. The report is signed subject to individual reservation of the right to express these individual views in separate or supplemental reports to be annexed hereto.

Geo W. Wickersham,
Chairman.
Henry W. Anderson,
Newton D. Baker,
Ada L. Comstock,
William I. Grubb,
William S. Kenyon,
Frank J. Loesch,
Paul J. McCormick,
Kenneth Mackintosh,
Roscoe Pound.

Washington, D. C., January 7, 1931.

Mr. ROBINSON of Indiana presented a petition signed by 1,037 citizens of Delaware County, Ind., praying for the retention of the eighteenth amendment of the Constitution and protesting against the modification or repeal of the so-called Volstead law, which was referred to the Committee on the Judiciary.

Mrs. CARAWAY presented numerously signed memorials of sundry citizens of Helena, Stuttgart, Salem, Stamps, Conway, Buckville, North Little Rock, Okolona, Cabot, Lonoke, Prairie Grove, and Gravette, all in the State of Arkansas, remonstrating against the repeal of the eighteenth amendment of the Constitution and also against repeal or modification of the Volstead Act so as to permit increase of the alcoholic content of permissible alcoholic beverage, which were referred to the Committee on the Judiciary.

Mr. DILL presented the petition of the Missionary Society, Methodist Episcopal Church of Puyallup, Wash., praying for the prompt ratification of the World Court protocols, which was ordered to lie on the table.

He also presented the petition of the Missionary Society, Methodist Episcopal Church of Puyallup, Wash., praying for the passage of legislation providing for supervision and regulation of the motion-picture industry, which was ordered to lie on the table.

Mr. GRAMMER presented the petition of the District Woman's Home Missionary Society, of Seattle, Wash., praying for the passage of legislation providing for supervision and regulation of the motion-picture industry, which was ordered to lie on the table.

He also presented petitions of the District Woman's Home Missionary Society, of Seattle, and the Missionary Society, Methodist Episcopal Church of Puyallup, in the State of Washington, praying for the prompt ratification of the World Court protocols, which were ordered to lie on the table.

Mr. CAPPER presented the petition of the Woman's Home Missionary Society of Mayetta, and the Woman's Home Missionary Society of Peru, both in the State of Kansas, praying for the prompt ratification of the World Court protocols, which was ordered to lie on the table.

He also presented a memorial numerously signed by sundry citizens of Abilene and Dickinson County, Kans., remonstrating against the repeal of the eighteenth amendment of the Constitution or modification of the national prohibition law, which was referred to the Committee on the Judiciary.

He also presented resolutions adopted by various church Sunday schools of Erie in the State of Kansas, protesting against the repeal of the eighteenth amendment of the Constitution or modification of the national prohibition law, which were referred to the Committee on the Judiciary.

He also presented memorials, numerously signed, of sundry citizens of Kingman County, Liberal, Ogallah, Burdick, Wichita, and members of the Church and Home Builders Club of the Calvary Presbyterian Church of Wichita, all in the State of Kansas, remonstrating against the repeal of the eighteenth amendment of the Constitution or modification of the national prohibition law, which were referred to the Committee on the Judiciary.

TAX ON BANK CHECKS

Mr. CAPPER. Mr. President, I send to the desk petitions from some 400 depositors in Kansas banks, including the St. George State Bank, of St. George; the Havensville State Bank, of Havensville; the First National Bank of St. Marys; the St. Marys Bank, of St. Marys; the Olsburg State Bank, of Olsburg; and the First National Bank of Havensville, urging repeal of the tax on bank checks, and ask that they be appropriately referred. Let me add that I am very much in sympathy with the request made by these petitioners and hope the Congress will favor such action.

The VICE PRESIDENT. The petitions will be referred to the Committee on Finance.

VETERANS' RELIEF (S. DOC. NO. 148)

Mr. WALSH of Massachusetts. Mr. President, in view of the interest throughout the country and the desire for information concerning the scope and extent of veterans' legislation, I am going to ask that A Statement on Veterans' Relief Looking to the Adoption of a National Policy, by Gen. Frank T. Hines, be made a Senate document. The statement contains a review of all legislation relating to veterans of all wars since the beginning of the Republic. It is concise and very illuminating, and I am sure will be read with much interest not only by Members of Congress and veterans but by the public at large. Aside from the recommendations made therein, which committees of the Senate are now studying, the statement itself will be very useful as a Senate document, and I submit the request that it may be printed as such.

The PRESIDING OFFICER (Mr. DICKINSON in the chair). Without objection, it is so ordered.

REPORT OF THE MILITARY AFFAIRS COMMITTEE

Mr. LOGAN, from the Committee on Military Affairs, to which was referred the bill (H. R. 4039) for the relief of Herman H. Bradford, reported it with amendments and submitted a report (No. 1003) thereon.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. REED:

A bill (S. 5126) to extend the provisions of the Reconstruction Finance Corporation act and the emergency relief and construction act of 1932 to the Virgin Islands; to the Committee on Banking and Currency.

By Mr. HULL:

A bill (S. 5127) for the relief of Elmer E. Mynatt; to the Committee on Claims.

A bill (S. 5128) granting a pension to Thomas A. Yadon; to the Committee on Pensions.

By Mr. SHORTRIDGE:

A bill (S. 5129) for the relief of Gladding, McBean & Co.; to the Committee on Claims.

By Mr. NEELY:

A bill (S. 5130) for the relief of Burk W. Burns; to the Committee on Claims.

By Mr. WATSON:

A bill (S. 5131) to extend the times for commencing and completing the construction of a bridge across the Ohio River at or near Cannelton, Ind.; to the Committee on Commerce.

By Mr. SHIPSTEAD:

A bill (S. 5132) granting an increase of pension to Mary H. Fetzer (with accompanying papers); to the Committee on Pensions.

By Mr. KING:

A bill (S. 5133) to amend the naturalization laws of the United States; to the Committee on Immigration.

REORGANIZATION AND CONSOLIDATION OF EXECUTIVE FUNCTIONS

Mr. McNARY. Mr. President, will the Senator from New York be kind enough to yield in order that we may have read a message from the President?

The VICE PRESIDENT. Does the Senator from New York yield?

Mr. COPELAND. I yield for that purpose.

The VICE PRESIDENT. The Chair lays before the Senate a message from the President of the United States, which will be read.

The Chief Clerk read the message, as follows:

To the Senate and House of Representatives:

The Congress, on June 30, 1932, enacted provisions for the reorganization of the executive departments, which subject I have from time to time laid before the Congress.

The declared policy of the Congress, as set out in section 401 of title 4, part 2, of this act, follows:

> SEC. 401. In order to further reduce expenditures and increase efficiency in government it is declared to be the policy of Congress—
>
> (a) To group, coordinate, and consolidate executive and administrative agencies of the Government, as nearly as may be, according to major purpose;

(b) To reduce the number of such agencies by consolidating those having similar functions under a single head;

(c) To eliminate overlapping and duplication of effort; and

(d) To segregate regulatory agencies and functions from those of an administrative and executive character.

To accomplish these purposes, the President was authorized by Executive order to transfer executive agencies to and from departments and independent executive agencies and to designate titles and duties of the officials connected therewith.

The act provides that such Executive orders must be transmitted to the Congress while in session and that they shall not become effective until the expiration of 60 calendar days, unless the Congress shall in the meantime approve them. In accordance with this authorization, I am transmitting herewith to the Congress Executive orders which have been issued to-day, transferring and grouping a large number of executive agencies.

A further limitation was placed upon Executive action in the provision that statutory functions may not be abolished by Executive orders, the effect of which renders it necessary to retain many commissions, but, under the orders issued, their administrative functions are placed under various departments, the commissions retaining their advisory functions only. A total of 58 executive agencies and parts of agencies have been grouped or consolidated. One effect is to reduce by about 15 the number of independent agencies and commissions.

I have made no estimate of the extent of the economies which will eventually result from this reorganization program. The total appropriations for the present fiscal year to these agencies is approximately $700,000,000.

These orders constitute the necessary initial action required in carrying out the policy which the Congress has proclaimed in connection with reorganization of the executive branch of the Federal Government. They undertake to group certain executive agencies and activities in logical and orderly relation to each other as determined by their major functions and purposes, and to vest in the head of each department, subject to Executive approval, the authority and responsibility to develop and put into effect the ultimate details of better organization, elimination of overlap, duplication, and unnecessary expenditure. These results can only be worked out progressively by the executive officers placed in charge of the different divisions.

An example of the value of such grouping and consolidation is well shown in the increased efficiency and administrative economies brought about through the consolidation of agencies relating to veterans' service and likewise of enforcement activities which were authorized some time ago.

I have under consideration further consolidations and grouping in the different departments, including certain functions of the Army and Navy, which I hope to be able to transmit to the Congress at a later date.

PUBLIC WORKS

I have established a Division of Public Works in the Department of the Interior and designated that the title of one of the present assistant secretaries shall be changed to "Assistant Secretary of Interior for Public Works," under whose direction I have grouped the following organizations and functions:

1. The Bureau of Reclamation, now in the Department of the Interior.
2. The Geological Survey, now in the Department of the Interior.
3. The Office of the Supervising Architect, which is transferred from the Treasury Department to the Department of the Interior.
4. The nonmilitary activities (except the Survey of Northern and Northwestern Lakes and the Supervisor of New York Harbor) administered under the direction or supervision of the Chief of Engineers, United States Army, including rivers and harbors and flood-control work, and the duties, powers, and functions of the Mississippi River Commission, the California Débris Commission, the Joint Board of Engineers for the St. Lawrence River Waterway, the Board of Engineers for Rivers and Harbors, and the Interoceanic Canal Board, which are transferred from the War Department to the Department of the Interior, and the said commissions and boards shall serve in an advisory capacity to the Secretary of the Interior.
5. The activities and duties relating to the construction, repair, and maintenance of roads, tramways, ferries, bridges, and trails in the Territory of Alaska, now in the Department of the Interior.
6. The Bureau of Public Roads, which is transferred from the Department of Agriculture to the Department of the Interior.
7. The Office of Public Buildings and Public Parks, which is transferred from its status as an independent establishment to the Department of the Interior.
8. The administrative duties, powers, and functions of the National Capital Park and Planning Commission, which are transferred to the Department of the Interior, and the commission shall serve in an advisory capacity to the Secretary of the Interior.
9. The administrative duties, powers, and functions of the Rock Creek and Potomac Parkway Commission, which are transferred to the Department of the Interior, and the commission shall serve in an advisory capacity to the Secretary of the Interior.
10. The administrative duties, powers, and functions of the Arlington Memorial Bridge Commission, which are transferred to the Department of the Interior, and the commission shall serve in an advisory capacity to the Secretary of the Interior.
11. The administrative duties, powers, and functions of the Commission of Fine Arts, which are transferred to the Department of the Interior, and the commission shall serve in an advisory capacity to the Secretary of the Interior.
12. The administrative duties, powers, and functions of the George Rogers Clark Sesquicentennial Commission, which are transferred to the Department of the Interior, and the commission shall serve in an advisory capacity to the Secretary of the Interior.
13. The administrative duties, powers, and functions of the Mount Rushmore National Memorial Commission, which are transferred to the Department of the Interior, and the commission shall serve in an advisory capacity to the Secretary of the Interior.
14. The administrative duties, powers, and functions of the general supply committee, Treasury Department, which are transferred to the Department of the Interior, and the committee shall serve in an advisory capacity to the Secretary of the Interior.
15. The Government fuel yards, which are transferred from the Bureau of Mines, Department of Commerce, to the Department of the Interior.

EDUCATION, HEALTH, AND RECREATION

I have established a Division of Education, Health, and Recreation in the Department of the Interior and have designated that one of the assistant secretaries shall be called "Assistant Secretary of Interior for Education, Health, and Recreation," and have transferred to that division the following organizations and functions:

1. The Office of Education, now in the Department of the Interior.
2. Howard University, now in the Department of the Interior.
3. The Columbia Institution for the Deaf, now in the Department of the Interior.
4. The American Printing House for the Blind, which is transferred from the Treasury Department to the Office of Education.
5. The administrative duties, powers, and functions of the Federal Board for Vocational Education which are transferred to the Office of Education, and the board shall serve in an advisory capacity to the Secretary of the Interior.
6. The Bureau of Indian Affairs, now in the Department of the Interior.
7. The Public Health Service, which is transferred from the Treasury Department to the Department of the Interior.

8. The division of vital statistics, which is transferred from the Bureau of the Census, Department of Commerce, to the Public Health Service in the Department of the Interior.

9. St. Elizabeths Hospital, now in the Department of the Interior.

10. Freedmen's Hospital, now in the Department of the Interior.

11. The National Park Service, now in the Department of the Interior.

12. The national parks, monuments, and cemeteries, which are transferred from the War Department to the Department of the Interior.

LAND UTILIZATION

I have established a Division of Land Utilization in the Department of Agriculture to include functions whose major purpose relates to the protection and utilization of land and its inherent natural resources, and have designated a change in the title of the Assistant Secretary to "Assistant Secretary of Agriculture for Land Utilization," and have transferred to that division the following organizations and functions:

1. The Forest Service, now in the Department of Agriculture.

2. The General Land Office, which is transferred from the Department of the Interior to the Department of Agriculture.

3. The administrative duties, powers, and functions of the committee on the conservation and administration of the public domain, which are transferred to the Department of Agriculture, and the committee shall serve in an advisory capacity to the Secretary of Agriculture.

4. The Advisory Council of the National Arboretum, now in the Department of Agriculture.

5. The Bureau of Biological Survey, now in the Department of Agriculture.

6. The Bureau of Chemistry and Soils, now in the Department of Agriculture.

7. Various fractions of bureaus already in the Department of Agriculture dealing with this major purpose will be subsequently added to this general division.

THE MERCHANT MARINE

I have established a Merchant Marine Division in the Department of Commerce and an Assistant Secretary of Commerce for Merchant Marine, and have transferred to that division the following organizations and functions:

1. The Coast and Geodetic Survey, now in the Department of Commerce.

2. The Hydrographic Office of the Bureau of Navigation of the Navy Department to the Coast and Geodetic Survey.

3. The Survey of Northern and Northwestern Lakes of the Office of the Chief of Engineers of the War Department to the Coast and Geodetic Survey.

4. The Bureau of Navigation and Steamboat Inspection, now in the Department of Commerce.

5. The supervisor of New York Harbor of the office of the Chief of Engineers of the War Department and the powers and duties of said supervisor to the Bureau of Navigation and Steamboat Inspection.

6. The Naval Observatory of the Bureau of Navigation of the Navy Department, with the exception of those activities that have to do with the development, maintenance, and repair of instruments for the Navy, to the Department of Commerce.

7. The United States Shipping Board Merchant Fleet Corporation to the Department of Commerce.

8. The Inland Waterways Corporation of the War Department to the Department of Commerce.

9. The Bureau of Lighthouses, now in the Department of Commerce.

COMMERCE AND INDUSTRY

I have transferred to the Department of Commerce or the bureaus thereof, as indicated, the following organizations and functions which involve services in the interest of commerce and industry:

1. The powers and duties of the Federal Oil Conservation Board to the Bureau of Mines, and the said board is abolished.

2. The administrative duties, powers, and authority of the National Screw Thread Commission to the Bureau of Standards, and the commission shall serve in an advisory capacity to the Secretary of Commerce.

3. The administrative duties, powers, and functions of the National Advisory Committee for Aeronautics to the Bureau of Standards, and the committee shall serve in an advisory capacity to the Secretary of Commerce.

4. The Weather Bureau of the Department of Agriculture to the Department of Commerce.

DEPARTMENT OF JUSTICE

I have transferred to and consolidated with the Department of Justice the powers, duties, and functions of the Alien Property Custodian, and the powers and duties now exercised by the Veterans' Administration which relate to the defense in court of cases involving litigation arising under section 19 of the World War veterans' act of 1924, as amended.

DEPARTMENT OF LABOR

I have transferred to and consolidated with the Department of Labor the powers and duties now exercised by the Employees' Compensation Commission which relate to the administration of the longshoremen's and harbor workers' act of March 4, 1927, and the act of May 17, 1928, extending the provisions of the 1927 act to private employers and their employees in the District of Columbia.

CIVIL SERVICE COMMISSION

I have transferred to and consolidated with the Civil Service Commission the powers and duties of the Employees' Compensation Commission which relate to the administration of the act of September 7, 1916, and amendments thereto, providing compensation on account of injuries sustained by civilian employees of the Federal Government and the municipal government of the District of Columbia, leaving the Employees' Compensation Commission to serve in an advisory capacity to the Civil Service Commission pending its abolition by legislative action.

BORDER PATROL

I have transferred to and consolidated with the Coast Guard in the Treasury Department the following services:

1. The border patrol from the Immigration Service in the Department of Labor; and

2. The border patrol from the Customs Service in the Treasury Department.

BUREAU OF THE BUDGET

I have transferred and consolidated the following activities in the Bureau of the Budget:

1. The powers and duties now exercised by the General Accounting Office which relate to the designing, prescribing, and installation of accounting forms, systems, and procedure in the several executive departments and independent establishments, except that the Comptroller General shall retain the power and duty to prescribe the form and manner in which accounts shall be submitted to his office for audit.

2. The powers and duties now exercised by the General Accounting Office which relate to the administrative examination of fiscal officers' accounts and claims against the United States, and the adequacy and effectiveness of the administrative examination of accounts and claims in the respective departments and establishments and the adequacy and effectiveness of departmental inspection of the officers and accounts of fiscal officers.

3. The powers and duties of the Bureau of Efficiency.

RECOMMENDATIONS REQUIRING LEGISLATION

I recommend that legislation be enacted to accomplish the following additional changes in organization which the law does not confer upon me authority to make:

1. Abolish the Rock Creek and Potomac Parkway Commission, whose powers and duties are transferred to the Department of the Interior. This commission has accom-

plished the purpose for which it was created and need no longer be retained as a separate entity.

2. Transfer jurisdiction over the operation, protection, and maintenance of the parks, parkways, playgrounds, and recreational activities of the District of Columbia, from the Office of Public Buildings and Public Parks to the Commissioners of the District of Columbia, making it possible to consolidate and coordinate these activities with similar functions now performed by the municipal government of the District, and relieving the Federal Government of the control of activities which are purely local in character and which are paid for out of District of Columbia funds.

3. Abolish the Employees' Compensation Commission. I have transferred those duties and activities of the commission which involve relations between private employers and their employees to the Department of Labor, and the remainder of its duties and activities, involving relations of the Federal Government and the municipal government of the District of Columbia, with their own employees, to the Civil Service Commission. This leaves no justification for the retention of the Employees' Compensation Commission.

4. Abolish the board of trustees of the National Training School for Boys, and transfer the powers, duties, and functions of that board to the Board of Public Welfare of the District of Columbia. The practice of committing delinquent boys to this institution from jurisdictions outside of the District of Columbia has been generally discontinued. This will automatically convert it into a local reform school, the management of which should be entrusted to local authorities. A similar change in jurisdiction over the National Training School for Girls was made by an act approved March 16, 1926.

I am submitting herewith not only Executive orders, but also a brief discussion prepared by the Bureau of the Budget of the proposed transfers and the basis on which they are predicated.

HERBERT HOOVER.

THE WHITE HOUSE, *December 9, 1932*.

CONSOLIDATION AND GROUPING OF PUBLIC WORKS ACTIVITIES IN THE DEPARTMENT OF THE INTERIOR

It is proposed in the Executive order on the Department of the Interior dealing with public works and related activities to consolidate and group those activities in the Department of the Interior and to place the immediate responsibility for their proper administration on one of the Assistant Secretaries of the Interior whose title will be changed to Assistant Secretary of the Interior for Public Works and who will be responsible to the Secretary of the Interior for the work placed under his jurisdiction. At the present time Federal activities relating to the planning and prosecution of public works, the maintenance and operation of buildings, and the purchase and supply of materials used by the Federal Government are scattered among a number of departments and independent boards or commissions. These activities are all closely related and should be grouped under a single control to achieve coordinated effort.

The activities of the Department of the Interior pertaining to public works and related functions now consist for the most part of the duties performed by the Bureau of Reclamation, the Geological Survey, and the exercise of the duties and authority formerly performed by the Board of Road Commissioners for Alaska. It is proposed to transfer the following organizations, bureaus, offices, and activities to the Department of the Interior:

1. The Office of the Supervising Architect from the Treasury Department.

2. The nonmilitary activities (with the exception of the supervisor of New York Harbor and the Survey of Northern and Northwestern Lakes) administered under the direction or supervision of the Chief of Engineers, United States Army, including rivers and harbors and flood-control work and the duties, powers, and functions of the Mississippi River Commission, the California Débris Commission, the Joint Board of Engineers for the St. Lawrence River Waterway, the Board of Engineers for Rivers and Harbors, and the Interoceanic Canal Board, from the War Department. The said boards and commissions will be retained to serve in an advisory capacity to the Secretary of the Interior.

3. The Bureau of Public Roads from the Department of Agriculture.

4. The Office of Public Buildings and Public Parks from its status as an independent establishment.

5. The administrative duties, powers, and functions of the National Capital Park and Planning Commission which is now an independent establishment. The commission will be continued solely as an advisory body.

6. The administrative duties, powers, and functions of the Rock Creek and Potomac Parkway Commission which is now an independent agency, and the retention of the commission solely as an advisory body.

7. The administrative duties, powers, and functions of the Arlington Memorial Bridge Commission which is now an independent establishment, and the continuance of the commission to serve in an advisory capacity.

8. The administrative duties, powers, and functions of the Commission of Fine Arts which is now an independent agency, and the continuance of the commission to serve in an advisory capacity.

9. The administrative duties, powers, and functions of the George Rogers Clark Sesquicentennial Commission, and the continuance of the commission as an advisory body.

10. The administrative duties, powers, and functions of the Mount Rushmore National Memorial Commission, and the continuance of the commission as an advisory body.

11. The administrative duties, powers, and functions of the General Supply Committee, Treasury Department, and the continuance of the committee solely as an advisory body.

12. The Government fuel yards from the Bureau of Mines, Department of Commerce.

There follows a statement of the origin, duties, and reasons for the transfer of each organization, bureau, office, or activity named above.

Office of the Supervising Architect: The Secretary of the Treasury has, from an early period in our history, been charged with the duty of constructing public buildings. Later the Office of Supervising Architect was developed in the department to supervise the construction of public buildings, and to maintain and operate Government buildings outside of the District of Columbia.

The Office of the Supervising Architect advises the departments on such construction matters as architectural designs, general layout, structural features, and mechanical equipment; it makes surveys of public-building requirements, prepares reports showing estimated costs, evaluations, etc., for submission to Congress; and it prepares plans and specifications for Government buildings, awards contracts therefor, and supervises their construction.

The work of this office is essentially connected with public works so far as design and construction are concerned and with service activities so far as care and maintenance are concerned, and therefore logically belongs in the department having jurisdiction over public works and service activities. It is proposed therefore to transfer the Office of the Supervising Architect from the Treasury Department to the Interior Department.

Rivers and harbors and flood control: The office of the Chief of Engineers is in control of all river and harbor improvements and flood control, as well as all military activities of the Corps of Engineers. For many years the service of Army engineers has been used in making, planning, and passing upon the internal improvements in which the Federal Government has been interested. In 1824 the President of the United States was authorized by an act of Congress (4 Stat. L. 22; approved April 30, 1824) to cause the necessary surveys, plans, and estimates to be made of the routes of such roads and canals as he might deem of national importance, and was given authority to employ civil engineers and officers of the Corps of Engineers of the United States Army to prosecute such work. The imporingly, I recommend that the commission be abolished by legislative action. Pending such action, the Employees' Compensation Commission will continue to serve in an advisory capacity to the Civil Service Commission.

EXECUTIVE ORDER

Transfer to the Civil Service Commission of certain functions now performed by the Employees' Compensation Commission

Whereas sections 401 and 403 of Title IV of Part II of the act approved June 30, 1932, provide—

SEC. 401. In order to further reduce expenditures and increase efficiency in Government it is declared to be the policy of Congress—

(a) To group, coordinate, and consolidate executive and administrative agencies of the Government as nearly as may be, according to major purpose;

(b) To reduce the number of such agencies by consolidating those having similar functions under a single head;

(c) To eliminate overlapping and duplication of effort; and

(d) To segregate regulatory agencies and functions from those of an administrative and executive character.

* * * * * * *

SEC. 403. For the purpose of carrying out the policy of Congress as declared in section 401 of this title, the President is authorized by Executive order—

(1) To transfer the whole or any part of any independent executive agency, and/or the functions thereof, to the jurisdiction and control of an executive department or another independent executive agency;

(2) To transfer the whole or any part of any executive agency, and/or the functions thereof, from the jurisdiction and control of one executive department to the jurisdiction and control of another executive department; or

(3) To consolidate or redistribute the functions vested in any executive department or in the executive agencies included in any executive department; and

(4) To designate and fix the name and functions of any consolidated activity or executive agency and the title, powers, and duties of its executive head.

Now, therefore, by virtue of the authority so vested in me, I hereby order the administrative duties, powers, and authority of the Employees' Compensation Commission which relate to the administration of the act of September 7, 1916 (39 Stat. 742–750), and the amendments thereto providing compensation on account of injuries sustained by civilian employees of the Federal Government and the municipal government of the District of Columbia be transferred to the Civil Service Commission, and that the Employees' Compensation Commission shall serve in an advisory capacity to the Civil Service Commission. All personnel, books, records, and papers pertaining to the work herein transferred; all public property, including office equipment and laboratory facilities, both in Washington and in the field, appertaining thereto; and the unexpended balances of the appropriations or allotments or other funds thereof, as of the date this order becomes effective, are transferred to the administrative jurisdiction of the Civil Service Commission.

All power and authority conferred by law, both supervisory and appellate, upon the establishment from which transfer is made, or the head or heads thereof, in relation to the office, bureau, division, or other branch of the public service or the part thereof so transferred shall immediately, when such transfer is effected, be fully conferred upon and vested in the Civil Service Commission, as to the whole or part of such office, bureau, division, or other branch of the public service so transferred.

With the approval of the President, the Civil Service Commission shall have the power, by order or regulation, to consolidate, eliminate, or redistribute the bureaus, agencies, offices, or activities and/or their functions, in the Civil Service Commission in so far as such action may be required to carry out the purpose of the consolidation herein ordered, and by rules and regulations not inconsistent with law to fix the functions thereof and the duties, powers, and titles of their respective executive heads.

This order shall take effect upon the sixty-first calendar day after its transmission to Congress unless otherwise determined in accordance with the provisions of section 407 of the act cited above.

HERBERT HOOVER.

THE WHITE HOUSE, *December 9, 1932.*

THE UNITED STATES BORDER PATROL

At present the land borders of the United States are patrolled by two different units—the immigration border patrol and the customs patrol. The immigration border patrol was organized to patrol the Canadian and the Mexican, Florida, and Gulf borders to prevent the illegal entry of aliens into this country. The Canadian patrol constitutes one district and the Mexican and Florida-Gulf patrol constitutes one district, with the united control of the entire border patrol in the Commissioner General of Immigration. The immigration border patrol has about 973 employees with a total annual pay roll of about $1,900,000.

The customs patrol is not unified in the field. Each customs collection district has its own customs patrol, which is under the control and supervision of the Collector of Customs. The customs patrol has about 718 employees with an annual pay roll of approximately $1,500,000.

The two services are responsible for the protection of the same areas. In some cases the two services are operating out of the same or near-by towns. The Immigration Patrol is charged with the prevention of illegal entry of persons, while the customs patrol is charged with the prevention of illegal entry of merchandise and the protection of the customs revenues.

The unification of the border patrols has been before the Congress for at least three years. A bill providing for their unification was passed by the House of Representatives during the Seventy-first session but failed to pass the Senate. The consolidation of the two border patrols into one organization charged with the enforcement of all laws of the United States relative to entry of persons or property is admitted by all to be desirable. It would simplify the procedure in handling violations of the law and would work toward a more effective enforcement.

In what department should a single border patrol be located? The enforcement of the immigration laws and the enforcement of the customs laws are each important, so there can be no selection on the basis of the most important laws. However, the Government now has an organization that is charged with the enforcement of these same laws—the United States Coast Guard. The consolidation of the border patrol with the Coast Guard would place in one organization the duty of patrolling the entire border of the United States, on land and on sea.

EXECUTIVE ORDER

Establishing a unified border patrol in the Coast Guard Service, Treasury Department

Whereas sections 401 and 403 of Title IV of Part II of the act approved June 30, 1932, provide—

SEC. 401. In order to further reduce expenditures and increase efficiency in government it is declared to be the policy of Congress—

(a) To group, coordinate, and consolidate executive and administrative agencies of the Government, as nearly as may be, according to major purpose;

(b) To reduce the number of such agencies by consolidating those having similar functions under a single head;

(c) To eliminate overlapping and duplication of effort; and

(d) To segregate regulatory agencies and functions from those of an administrative and executive character.

* * * * * * *

SEC. 403. For the purpose of carrying out the policy of Congress as declared in section 401 of this title, the President is authorized by Executive order—

(1) To transfer the whole or any part of any independent executive agency, and/or the functions thereof, to the jurisdiction and control of an executive department or another independent executive agency;

(2) To transfer the whole or any part of any executive agency, and/or the functions thereof, from the jurisdiction and control of one executive department to the jurisdiction and control of another executive department; or

(3) To consolidate or redistribute the functions vested in any executive department or in the executive agencies included in any executive department; and

(4) To designate and fix the name and functions of any consolidated activity or executive agency and the title, powers, and duties of its executive head.

Now, therefore, by virtue of the authority so vested in me, I hereby order that the following transfers be made to the Coast Guard Service of the Treasury Department:

The Immigration Border Patrol from the Bureau of Immigration, Department of Labor.

The Customs Patrol from the Bureau of Customs, Treasury Department.

The Commandant of the Coast Guard shall take action toward the establishment of a unified border patrol, which shall become effective upon order of the Secretary of the Treasury with the approval of the President.

The agencies that are transferred shall carry with them all their powers and duties, personnel, books, records, and papers pertaining to the work thereof; all public property including office equipment and laboratory facilities, both in Washington and in the field, appertaining thereto; and the unexpended balances of their appropriations or allotments or other funds as to the date this order becomes effective.

All power and authority conferred by law upon the Secretary of Labor or other officers of that department in relation to the border patrol of the Bureau of Immigration and/or the Commissioner of Customs or other officer of the Customs Service with respect to the border patrol of the Customs Service shall, when such transfer is effected, be fully conferred upon and vested in the Coast Guard Service or the commandant thereof, as the case may be.

With the approval of the President, the Secretary of the Treasury shall have the power, by order or regulation, to consolidate, eliminate, or redistribute the bureaus, agencies, offices, or activities and/or their functions, in the Treasury Department in so far as such action may be required to carry out the purposes of the consolidation herein ordered and by rules and regulations, not inconsistent with law, to fix the functions thereof and the duties, powers, and titles of their respective executive heads.

This order shall take effect upon the sixty-first calendar day after its transmission to Congress unless otherwise determined in accordance with the provisions of section 407 of the act cited above.

HERBERT HOOVER.

THE WHITE HOUSE, *December 9, 1932.*

General Accounting Office

The General Accounting Office was created by the Budget and Accounting Act of June 10, 1921. (42 Stat. 23.) The primary purpose of creating the General Accounting Office was to establish an independent agency to take over the powers and duties formerly imposed by law upon the Comptroller of the Treasury and the six auditors of the Treasury Department. It was believed by the Congress that the function of auditing the receipt and expenditure accounts of the Government should be separate and independent of any of the executive departments. The separation of this audit function from the executive departments and placing the responsibility for auditing all receipt and expenditure accounts in an establishment that is independent of all others is believed to follow a sound principle and one that should be strictly adhered to. The Budget and Accounting Act, however, went further than to centralize the audit function in a separate independent establishment. It conferred upon the General Accounting Office duties of an administrative or executive character. The wording of the act has been interpreted to permit the General Accounting Office to extend its powers and duties into the field of administration in the several departments and establishments of the Government to an extent that is far beyond its primary function.

It is proposed to transfer from the General Accounting Office to the Bureau of the Budget those duties and functions which are administrative or executive in character, except those relating to the primary function of auditing the Government accounts. Particularly it is proposed to transfer—

(1) Those activities that relate to the designing, prescribing, and installing of accounting forms, systems, and procedure to be used in the several executive departments and establishments, except that the Comptroller General shall retain the power and duty to prescribe the form and manner in which accounts shall be submitted to his office for audit;

(2) Those activities which relate to the administrative examination of fiscal officers' accounts and claims against the United States, and the adequacy and effectiveness of the administrative examination of accounts and claims in the respective departments and establishments and the adequacy and effectiveness of departmental inspection of the offices and accounts of fiscal officers.

Section 309 of the Budget and Accounting Act gives the Comptroller General, as head of the General Accounting Office, the power and duty to " prescribe the forms, systems, and procedure for administrative appropriation and fund accounting in the several departments and establishments and for the administrative examination of fiscal officers' accounts and claims against the United States."

Section 312 (d) provides that—

> He [the Comptroller General] shall submit to Congress reports upon the adequacy and effectiveness of the administrative examination of accounts and claims in the respective departments and establishments and upon the adequacy and effectiveness of departmental inspection of the offices and accounts of fiscal officers.

The Comptroller General should have the power and duty of prescribing the form and manner in which accounts are submitted to the General Accounting Office for the purpose of auditing and to require all information necessary for such audit. It is not, however, a proper function of an establishment created primarily for the purpose of auditing Government accounts to make the necessary studies and to develop and prescribe accounting systems involving the entire field of Government accounting. Neither is it a proper function of such an establishment to prescribe the procedure for nor to determine the effectiveness of the administrative examination of accounts. Accounting is an essential element of effective administration, and it should be developed with the primary objective of serving this purpose. It should be so standardized as to facilitate the preparation of financial data and reports for the Government as a whole, as well as to provide the proper basis for audit. The accounting forms, systems, and procedure prescribed for the Government establishments become the most effective means available for the use of the department head in administering the activities under his jurisdiction, and they also furnish the information upon which future requirements must be predicated.

The administrative examination of accounts is, as its name implies, an administrative function. It is the final essential link in the administrative control of the fiscal activities of a department. It is not restricted to the checking of the accuracy of computation, although this may be a necessary incident of the examination. Its real purpose is the complete and detailed analysis of the actual expenditures which enables the department head to control the activities for which he is responsible. It provides him information as to the actual cost of the various objects for which he has authorized the expenditure of appropriated funds, enables him to furnish the President, through the Bureau of the Budget, with justification for estimates of future requirements, and thus forms the basis of the whole estimating system of the Government.

The duty of developing the forms, systems, and procedure of accounting, and the administrative examination of accounts should, therefore, be under the general direction of the Bureau of the Budget, which is vitally concerned with these purposes.

Bureau of Efficiency

The Bureau of Efficiency was created as a division of the Civil Service Commission in pursuance of a provision of the legislative, executive, and judicial appropriation act approved March 4, 1913. It was made an independent establishment by the deficiency appropriation act, approved February 28, 1916. The chief of the bureau is appointed by the President, with the advice and consent of the Senate. The functions of the bureau now include the making of investigations pertaining to the duplication and overlapping of statistical services and other activities of the Federal Government, business methods and procedures in the Government service, and the personnel needs of the executive departments

75TH CONGRESS
1st Session

SENATE

REPORT
No. 1275

INVESTIGATION OF EXECUTIVE AGENCIES OF THE GOVERNMENT

PRELIMINARY REPORT

OF THE

U. S. Congress, Senate.
"

SELECT COMMITTEE TO INVESTIGATE THE EXECUTIVE AGENCIES OF THE GOVERNMENT

PURSUANT TO

SENATE RESOLUTION NO. 217 (74TH CONGRESS)
A RESOLUTION CREATING A SELECT COMMITTEE TO
INVESTIGATE EXECUTIVE AGENCIES OF THE
GOVERNMENT WITH A VIEW TO
COORDINATION

PRESENTED BY MR. BYRD

AUGUST 16 (calendar day, AUGUST 19), 1937.—Ordered to be printed with illustrations

UNITED STATES
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WASHINGTON : 1937

180

SELECT COMMITTEE ON INVESTIGATION OF EXECUTIVE AGENCIES OF THE GOVERNMENT

HARRY FLOOD BYRD, Virginia, *Chairman*

JOSEPH T. ROBINSON, Arkansas	CHARLES L. McNARY, Oregon
JOSEPH C. O'MAHONEY, Wyoming	JOHN G. TOWNSEND, Jr., Delaware

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75TH CONGRESS } SENATE { REPORT
1st Session } { No. 1275

INVESTIGATION OF EXECUTIVE AGENCIES OF THE GOVERNMENT

AUGUST 16 (calendar day, AUG. 19), 1937.—Ordered to be printed, with illustrations

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Mr. BYRD, from the Select Committee to Investigate the Executive Agencies of the Government, submitted the following

PRELIMINARY REPORT

[Pursuant to S. Res. 217, 74th Cong.]

The Select Committee to Investigate the Executive Agencies of the Government was created under Senate Resolution 217 (74th Cong.), passed February 24, 1936—

> to make a full and complete study of all the activities of the departments, bureaus, boards, commissions, independent agencies, and all other agencies of the executive branch of the Government, with a view to determining whether the activities of any such agency conflict with or overlap the activities of any other such agency and whether, in the interest of simplification, efficiency, and economy, any of such agencies should be coordinated with other agencies or abolished or the personnel thereof reduced.

The committee was directed to report to the Seventy-fifth Congress and from time to time thereafter the results of its investigations, together with its recommendations, if any, for necessary legislation.

The committee proceeded to its assignment with an attitude of looking before leaping into a task of such magnitude. It retained the Brookings Institution, in conjunction with the President's Committee on Administrative Management and the Committee on Reorganization of the House of Representatives, to make a functional and fact-finding survey of the agencies of the Government. The Brookings Institution recently completed that survey and submitted it to the committee in the form of a report of more than 500,000 words.

The Brookings Institution incorporated in the report its own observations and conclusions for the benefit of the committee. This committee has not had the time sufficient to study and digest the report. Therefore, at this time it wishes neither to accept nor reject the conclusions reached or the recommendations suggested by the Brookings Institution. The committee proposes to continue its careful study of the report and to report further from time to time in accordance with the resolution.

However, the committee is pleased to submit the report of the Brookings Institution in its entirety, with the understanding that the observations, conclusions, and recommendations therein contained are not to be construed as committee recommendations, and that they are not necessarily the sense or views of the committee as a whole or any member thereof, and ask leave to have the report printed for the purposes of general information and reference for Members of the Senate and the House of Representatives, and the public generally.

The committee, in compliance with the terms of the resolution, proposes to continue its study of the agencies and their relationships, by further analysis of the Brookings Institution report and further study at other sources of information, and report its findings.

The committee takes this opportunity to inform the Senate that it plans a further and detailed and exhaustive study of the personnel of the executive agencies of the Government, as directed by the resolution and to report to the Senate, as a separate phase of its work, its findings and recommendations in this tremendous and engaging field.

LETTER OF TRANSMITTAL

THE BROOKINGS INSTITUTION,
Washington, D. C., June 19, 1937.

The Honorable HARRY F. BYRD,
Chairman, Select Committee to Investigate the
Executive Agencies of the Government,
United States Senate, Washington, D. C.

SIR: We have now submitted the final installment of the report called for by our contract with your committee, dated July 15, 1936. As you may decide to publish all the chapters of this report in a single volume, it seems advisable to take this occasion to restate for the record the history of our undertaking.

The Brookings Institution had contracts both with the Senate Select Committee to Investigate the Executive Agencies of the Government, of which you are the chairman, and with the special House committee of the Seventy-fourth Congress, of which the late Representative James P. Buchanan was chairman. Our contracts with the two committees specifically provided that the one report from us should fulfill our commitments under each of the contracts.

The contracts between the Brookings Institution and the two committees were made through an exchange of correspondence which embodied the following significant points:

(1) It is understood that the Brookings Institution will make no recommendations regarding the desirability or undesirability of functions that have been authorized by legislative or executive action. It will confine itself to a study of the organization and administration of existing functions and to recommendations regarding the improvement of their administrative performance. It is understood, however, that the institution may discuss trends in respect to a given function insofar as such trends are pertinent to the subject of organization and administration.

(2) In regard to the character of the recommendations, it is agreed that the Brookings Institution may in its discretion (*a*) make definite, specific recommendations, or (*b*) suggest alternative changes, or (*c*) raise for the consideration of the committees specific questions of policy regarding reorganization without itself attempting to say exactly how these questions should be answered.

(3) It is understood that the program of work of the Brookings Institution is such that certain descriptive parts of the materials are to be assembled first and form the basis for further analysis and that any broad statements regarding the problem as a whole and any suggestions for changes in organization must necessarily come last.

(4) To enable the Brookings Institution to comply with the requests of the two committees the Senate committee agreed to pay (and did pay) to the Brookings Institution the sum of $18,200. The House committee agreed to pay (and did pay) the sum of $10,000, and it further made arrangements whereby the President's Committee on Administrative Management made available for use in con-

nection with the Brookings' study a pay-roll credit of $10,000. The total Government contribution was, therefore, $38,200. The details appear in our "Financial report of receipts and expenditures in connection with the Federal organization project under contracts dated July 15, 1936, submitted to the Senate Select Committee on Investigation of Executive Agencies of the Government (S. Res. No. 217, 74th Cong.) and the select committee of the House under House Resolution No. 460 (74th Cong.)." The date of this report is February 2, 1937.

(5) It was recognized that the total amount of Government funds thus made available to the Brookings Institution would be insufficient to pay the entire costs of the undertaking and that the Brookings Institution would meet part of the costs from its own funds. Its contributions to June 1, 1937, are $21,070, out of the total cost of $59,270. Of this amount, Mr. Marshall Field contributed the sum of $9,434.

The staff for the project was made up of (1) the members of the regular staff of the Institute for Government Research of the Brookings Institution, (2) certain members of the staff of the Institute of Economics of the Brookings Institution, and (3) a number of temporary employees engaged because of their special experience and fitness and retained for varying periods from 1 to 7 months. The members of the group were:

Regular staff: Frederick F. Blachly, Charles L. Dearing, Charles O. Hardy, Adah Lee, Lewis Meriam, Malcolm Merriam, A. C. Millspaugh, Laurence F. Schmeckebier, and Daniel T. Selko.

Special staff: Horace A. Bacus, Spurgeon Bell, Mrs. M. DeRichey Cain, Esther Cole, Nils V. B. Hansell, Avery Leiserson, G. W. Lineweaver, C. D. Masters, E. G. Montgomery, Robert H. Overstreet, Charles E. Persons, John B. Rae, Charles Thomson, and Mrs. J. Kerwin Williams.

Fred W. Powell, the acting director of the Institute for Government Research, was director of the project.

The recommendations contained in this report do not represent the judgment of any single member of the staff; they are distinctly a group product arrived at through formal and informal staff conferences. At no time were votes taken on the basis of deciding disputed points by majority rule. Absence of agreement resulted in presenting a question without recommendations, or in presenting several possible solutions with the arguments pro and con. The presentation of questions instead of answers of several possible solutions instead of one does not however necessarily indicate disagreement among the staff. Sometimes the staff felt that no one solution was the only one and that the decision in any one case turned on the decisions in other cases or on matters of policy which should be determined by the Congress.

It should be definitely stated that the recommendations are the work of the staff of the Brookings Institution. The trustees of the institution do not pass upon the recommendations.

The staff wishes to express its appreciation of the cooperation of the Government officials and employees in the fact-gathering stages of its work and especially of the cordial cooperation of the committees.

Respectfully,

HAROLD G. MOULTON, *President.*

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PART II. CONCLUSIONS AND RECOMMENDATIONS

It is believed that, if appropriate measures are taken with reference to Federal law-enforcement agencies, certain minor economies may be achieved and operating effectiveness somewhat increased. Various suggestions for reorganization or coordination are stated below. Some of these are alternatives to others. Many of them stand alone and can be worked out regardless of other action.

A. EXTREME POSSIBILITIES EXAMINED

I. CENTRALIZATION IN THE BUREAU OF INVESTIGATION

1. *Arguments for.*—This radical step, it may be argued, would create in the Federal Government a single powerful agency for the enforcement of Federal laws, for a concentrated attack on the crime problem, so far as the problem lies within Federal jurisdiction, and for the supplementation and coordination of State and local law-enforcement agencies. It would obviate the possibility of jealousies arising among law-enforcement units. It would permit consolidation of field offices with some resulting economies. Combining of personnel would make possible greater flexibility in operations and, in emergencies, a greater and prompter concentration of men. It would presumably make possible a more effective attack on crime, since it would bring to bear on all violations of the law the wide knowledge of and experience with criminality which has been accumulated in the various agencies.

An administrative consolidation, concentrating an increased force under one direction, might contribute to better service by increasing the power to select cases. Each of the enforcement agencies has urgent and nonurgent cases, major and minor cases. The flow of minor cases is fairly constant and predictable. The major cases, however, constitute emergencies which cannot be predicted; and, when they occur, their investigation cannot safely be postponed. Furthermore, when major and urgent cases now accumulate in one agency, they must be handled within the limited resources of that agency; although in another agency there may be comparatively few such outstanding cases. No figures are available showing the time occurrence of major cases; but it would seem fair to assume that, if all Federal law-enforcement work were combined, the flow of major cases would become more constant in the consolidated agency. If this inference proved to be correct, three beneficial results would follow: First, division of work and specialization would be possible in larger measure than at present; second, a larger opportunity would exist for the establishment of a plan of priorities among cases; and, third, a clearer picture would be presented of the several classes and volume of general law-enforcement work and thus the Bureau of the Budget and the congressional appropriation committees would have a sounder basis for dealing with proposals for expenditure.

Crime undoubtedly needs to be studied as a single problem. Persistent violators of the law do not ordinarily restrict themselves to one class of offense. As a rule they start their criminal careers with certain types of delinquency and then progress by fairly definite and predictable steps to acts of shocking criminality. Of the criminal fingerprint records received by the Bureau of Investigation, more than 50 percent represent men and women who have committed more than one crime. Variations in the crime problem result, of course, from developments such as occurred from the enactment of the eighteenth amendment and its repeal. Concentration of law-enforcement activities in one special field of crime may appear to be highly successful in that field but the result may be to drive criminals from that field into another. Criminality tends to flourish in the legal categories and the geographical areas where enforcement is weakest.

An effective Federal agency for general law enforcement, it may be argued, should be able to deal with crime in general and with the criminal in all of his aspects, not merely with a few selected manifestations of criminal activity; and only such an agency can hope to attain the maximum of balance, resourcefulness, adaptability, speed, and mobility.

2. *Arguments against.*—Against the suggested consolidation, a good many practical objections present themselves. The agencies examined in this study have a total personnel of 15,769. The Coast Guard alone has over 10,000. The Bureau of Investigation has less than 10 percent of the total. An actual physical transfer of the other law-enforcement agencies to the Bureau of Investigation would be impossible; and it would seem reasonable to expect that a wholesale statutory transfer at any one time would produce indescribable confusion. Indeed, the entire Department of Justice might be thrown out of balance and partially demoralized. A drastic consolidation of this nature would disregard the fact that some of these agencies are almost exclusively auxiliary to administrative functions for which the Department of Justice has no responsibility and in which it has no professional interest. Many of the agencies proposed to be transferred are closely articulated with the departments or bureaus where they are now located, and inextricably involved in the operations of such departments and bureaus. It is not difficult to show, therefore, that their transfer to a different department would divide responsibility for the conduct of various Federal services, would create more overlappings and occasions for jealousy and friction than now exist, and would necessitate the establishment of complicated and expensive coordinating mechanisms. These objections seem to be especially cogent with respect to the transfer in toto of such agencies as the Secret Service Division, the Coast Guard, the Intelligence Unit of the Bureau of Internal Revenue, the Customs Agency Service, the Post Office Inspectors, and the Immigration Border Patrol.

II. TRANSFER OF THE BUREAU OF NARCOTICS TO THE BUREAU OF INVESTIGATION

1. *Arguments for.*—The problem of locating the work of the Bureau of Narcotics involves consideration of the Bureau as a public-health and business-regulatory agency, as well as a law-enforcement agency. The Bureau overlaps at present three functional fields. Law enforcement, that is, the detection and apprehension of violators of the narcotic laws, is estimated to constitute 80 percent of the volume of work of the Bureau; while the permissive side of its work accounts for about 20 percent. Much of the law-enforcement work, moreover, has to do with running down "dope" peddlers. The illicit trade in narcotic drugs is closely connected with general criminality; and narcotics law enforcement calls for close cooperation with State and local authorities. There might seem, therefore, to be a fairly strong case for transferring the Bureau of Narcotics, or at least its law-enforcement function, to the Department of Justice, where narcotics control would be administered by, or in close cooperation with, the Bureau of Investigation. Nevertheless, the arguments against such a transfer are not to be disregarded.

2. *Arguments against.*—Control of narcotics by the Federal Government is based on both statutes and international agreements. These represent an attempt to solve a difficult and complex social problem, important in the promotion of the public health, the elimination of vice, and the reduction of criminality. Since neither opium nor cocaine is produced in the United States, the limitations of the quantity in this country to our medicinal requirements makes necessary a calculation of what our medicinal requirements are and renders essential a strict regulation of imports and the prevention of smuggling.

Administration of narcotic control in this country involves action by permanent international agencies, continuous cooperation with foreign governments, cooperation between the Federal Government and the States, Federal promotion of State legislation, Federal regulation through licensing and registration, education, taxation, inspection, detection, apprehension, and prosecution. In its international aspects, narcotics control brings in the Department of State and the Public Health Service, the Bureau of Narcotics, the Bureau of Customs, the Coast Guard, and other units of the Treasury Department. In its domestic aspects, narcotics control involves the taxation and regulation of those engaged in the narcotics trade, the prevention of diversion from legitimate to illegitimate channels, the detection, apprehension, and prosecution of illicit dealers, the maintenance of institutions for the treatment of addicts, and the carrying on of educational and other preventive activities. Domestic control, accordingly, brings in, not only the Bureau of Narcotics, but also the Bureau of Internal Revenue and the Public Health Service of the Treasury Department, as well as other Federal agencies. Still other agencies which obviously have legal duties in this connection include the Bureau of Immigration and Naturalization and the United States attorneys and other officials under the supervision of the Department of Justice.

The relations of the Bureau with the States are in some respects similar to those of the Bureau of Investigation; but they are in other respects significantly different. A large proportion of violators of the narcotic laws are in a special class and require specialized handling. In fact, to deal successfully with this special class of violators calls for much policy determination. It is not primarily a matter of applying the methods appropriate to general criminal law enforcement. Furthermore, the law assigns to the Bureau of Narcotics the duty of promoting State legislation and improved State administration in this field. The Bureau also has educational and propaganda functions of a specialized nature. The assignment of these peculiar educational and promotive functions to the Department of Justice would seem decidedly inappropriate; and would probably prove embarrassing to that Department. The regulatory functions of the Bureau would likewise be out of place in the Department of Justice.

It would, of course, be possible to transfer to the Department of Justice only the strictly law-enforcement functions of the Bureau. In large part, illicit traffic in narcotic drugs shows the same geographical distribution as crimes in general. Were such a transfer made, however, it is doubtful whether as a practical matter these functions could be performed as efficiently as they are in the present set-up.

Furthermore, it is generally agreed among students of law-enforcement that vice, as distinguished from crime, should not be put within the jurisdiction of a regular police department or other general law-enforcement agency. When such an agency is made responsible for the suppression of vice, its responsibilities in this connection are likely either to be neglected or to become a corrupting influence. On the whole, it may be expected that the Bureau of Investigation will develop most satisfactorily if it is kept free of narcotics control.

III. TRANSFER OF THE ENFORCEMENT DIVISION OF THE ALCOHOL TAX UNIT TO THE BUREAU OF INVESTIGATION

This transfer might be suggested by the fact that prohibition enforcement was at one time a function of the Department of Justice. At the present time, the Enforcement Division of the Alcohol Tax Unit appears to have an inseparable working relationship with the remainder of the Unit; and the Unit itself seems to be appropriately located in the Bureau of Internal Revenue, for at present Federal policy in dealing with the liquor traffic emphasizes taxation. From the standpoint of taxation, a transfer of the Enforcement Division to the Bureau of Investigation would be inadvisable. Such a transfer would be quite as inadvisable if the social aspects of the liquor question, rather than the fiscal, were to be emphasized. In the case of the Alcohol Tax Unit cooperation appears to be closest with the Bureau of Customs, the Coast Guard, and the Intelligence Unit of the Bureau of Internal Revenue. The jurisdictional relationship of the Alcohol Tax Unit with the States is quite different from that of the Bureau of Investigation.

arson, etc. Indeed, these so-called postal crimes and depredations overlap the jurisdiction of the Bureau of Investigation more decidedly than do those offenses which are now handled by the Secret Service; and postal crimes seem to be more closely linked with the general problem of criminality than are counterfeiting and forgery.

It may be true that not more than 25 percent of the work and personnel of the post-office inspectors' service could be practicably transferred; but there is some reason to believe that, because of the preponderance at present of internal inspectional work, this 25 percent of the work of the post-office inspectors tends to be neglected. Moreover, post-office inspectors are trained for the 75 percent of their work, not for the 25 percent. They are promoted from the ranks of the Postal Service itself.

2. *Arguments against.*—Against any unscrambling of the functions of the inspectors, it may be argued that the investigation of crimes against the mails is inextricably involved in postal operations and requires internal as well as external investigation, that the sanctity of the mails must be preserved, and that responsibility for postal operations can be definitely located in the Postmaster General only when that official is made responsible for every activity designed to protect the Postal Service.

The suggested transfer, if carried out, will not diminish the need of cooperation between the Post Office Department and the Department of Justice in criminal law-enforcement work. On the contrary, a reorganization of the kind suggested would increase the number of offenses within the jurisdiction of the Department of Justice which are discovered in or by the Post Office Department; and the Bureau of Investigation would have greater need than at present for the cooperation of the post-office inspectors in the obtaining of evidence available only within the Postal Service. Nevertheless, the post-office inspectors already share their jurisdiction with other law-enforcement agencies, including the Bureau of Investigation; and the inspectors are called upon at present to cooperate with such agencies. The Bureau of Investigation now handles extortion threats sent through the mails; the Bureau, it is understood, makes all accounting investigations in mail-fraud cases; and the inspectors supply mail tracings to other law-enforcement agencies.

C. The Land and Water Patrols

I. TRANSFER OF THE CUSTOMS PATROL AND THE IMMIGRATION BORDER PATROL TO THE COAST GUARD

1. *Proposals in the past.*—In 1930 a bill was drafted for the purpose of combining the two patrols and placing their administration under the Coast Guard; and hearings on the subject were held on April 24 and 25, 1930, before the House Committee on Interstate and Foreign Commerce. A comprehensive and detailed survey had been made by the Coast Guard and probably also by the two bureaus more immediately concerned; and the bill was apparently approved, at least in principle, by both the Treasury and Labor Departments.

The plan of consolidation advanced at that time was apparently motivated by a desire to make prohibition enforcement more effective. Efficiency in the regular work of the immigration and customs services appears to have been a secondary consideration. No reduction in the cost or personnel of the patrols seems to have been contemplated. Indeed, the Treasury Department proposed an actual increase in personnel of 924 employees and an annual expenditure of $3,414,496 for the patrolling work proper, together with increases for overhead administration.[41]

It was stated in the 1930 hearings that—

> One of the essentials of an effective border patrol is that it be organized upon a military basis, with an enlisted and commissioned personnel, and with military training and discipline.
>
> What I mean by that is that it is essentially a police force and that we are likely to get probably better men, a higher standard of morale, build up more rapidly a tradition of service, if we have a semimilitary or military organization, that if we attempt to operate under civil-service laws.[42]

Nevertheless, it was admitted at that time that even if a unified border patrol were placed under the Coast Guard:

> * * * it should be organized and maintained as a distinctly separate organization. The Coast Guard has other duties more important than the prevention of smuggling on our land borders. * * * Patrolling our land borders is essentially a police function. The Coast Guard proper is a naval organization charged with the duty of protecting life at sea and enforcing on our ocean boundaries the laws of the United States. We do not propose to make policemen of our sailors. But we do want to avail ourselves of their central organization.[43]

2. *Arguments for and against.*—Consolidation of the border patrols with the Coast Guard would apparently tend to improve coordination of antismuggling work on land and water. It may be urged in this connection that both the customs patrol and the immigration border patrol now operate to some extent on water as well as on land. While most of the floating equipment of the Customs Service has been turned over to the Coast Guard, no steps appear to have been taken looking to a like transfer of the floating equipment of the Immigration Service. While there is no evidence of duplication at present in the use of such floating equipment, the possibility of an unnecessary duplication of equipment and operations on water could be obviated by the consolidation of land and water patrol work under the Coast Guard; but the same end could be accomplished by a clear-cut allocation of all coastal and harbor patrol work to the Coast Guard.

Consolidation with the Coast Guard might be urged also as a means of avoiding duplication of aviation and radio equipment and operation. In this connection no evidence appears of duplication at the present time. Neither land patrol has at present any airplanes; and, although the Immigration and Naturalization Service is extending its radio facilities, it is understood to be making use of the Coast Guard transmitting stations in areas where such stations are operating.

While the question of operations on water and in the air is a secondary one, so far as the Immigration and Naturalization Service is concerned, it seems important to maintain, so far as may be practicable, the policy of keeping water- and air-enforcement operations centralized so far as possible in the Coast Guard. This organization is already equipped for large-scale operations on water and in the air. Its activities are flexible and it has had long experience as a service agency, rendering a variety of services to other agencies of the Government, outside as well as inside the Treasury Department, and including the Immigration and Naturalization Service. In certain coastal areas the Coast Guard, it is understood, now performs all the functions of both the immigration and customs patrols.

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[41] At a later date, however, the Department of the Treasury submitted to the Bureau of the Budget a plan of consolidation under the Coast Guard with an estimate of expenditure indicating considerable savings.

[42] Ogden L. Mills, in hearings before the House Committee on Interstate and Foreign Commerce, Apr. 24, 25, 1930, p. 5.

[43] Ibid., pp. 5–6.

The principal reason for the expansion of the customs patrol was the need for enforcement of national prohibition; the principal reason for the original establishment of the immigration border patrol was the enactment of the so-called Quota Act. It is apparent that conditions have materially changed since the original establishment of the two patrol forces. The most significant change has been brought about by the repeal of the eighteenth amendment. Prior to repeal, liquor smuggling was the major problem of the customs patrol on all land and sea borders of the United States. Since repeal, liquor smuggling has gradually decreased, and at the present time it is said to be at the minimum except on the Mexican border. It is pointed out by customs officials, however, that droughts in the United States and other conditions have made the smuggling of livestock, wool, and agricultural and dairy products profitable and that such commodities have in large measure replaced liquor as the major problem of the customs patrol. The smuggling of narcotic drugs has also assumed outstanding importance; but narcotics smuggling, according to those most familiar with it, is largely a coastal activity, and the smugglers, probably in a majority of cases, are found among the crews or passengers of legitimate vessels. In 1935, it is true, the immigration border patrol in California seized 310 tins of opium valued at about $50,000, but this seizure was made over 100 miles from the border, and the evidence is said to have indicated that the narcotics had been smuggled through a seaport and not over the land border. Considering the work of both patrol organizations, it appears that the major problem of land-border control is at present, and probably will be in the future, the prevention of the smuggling of aliens.

3. *The objections summarized.*—To the placing of the immigration border patrol under the Coast Guard it may be objected, in short, that the Coast Guard is a naval or quasi-naval organization; it automatically goes under the Navy Department in time of war; the clear-cut character of its present geographical jurisdiction should be maintained; Coast Guard personnel, training, traditions, equipment, and operations are not analogous to those of the immigration border patrol; the work of the latter is predominantly on land; alien control is the major land-border problem; and the operations of the patrol are closely integrated with the general functioning of the Immigration and Naturalization Service.

II. DISTRIBUTION OF THE FUNCTIONS OF THE COAST GUARD AMONG THE DEPARTMENTS TO WHICH THEY ARE MOST CLOSELY RELATED

A breaking up of the Coast Guard has been suggested in the past, but it is doubtful whether any group of functions could be separated from the Coast Guard and transferred to another agency without increasing administrative and operating costs, and, in the exercise of the transferred functions, coordination with the Coast Guard would still be necessary. For example, if shore lifesaving activities were transferred, they would still need to be coordinated with the operations of coastal and deep-sea craft. Further information on this point is quoted below from data furnished by the Coast Guard.

> The lifesaving work of both the stations and the vessels is highly specialized. In particular the handling of small boats in the surf by station crews and the boat and rescue work of the seagoing vessels require careful training and long experience. In these branches of seafaring the Coast Guard is probably the most highly developed organization in the world.
>
> To maintain an equal efficiency in design of equipment, selection and training of personnel, and methods of operation, any agency undertaking this work would require facilities for training similar to those now maintained by the Coast Guard.

In any event, if the service and regulatory work of the Coast Guard were separated from that agency, there would still be two or more departments interested in the work thus separated; for harbor craft are used in customs and immigration administration, as well as in the administration of regulations pertaining to shipping.

We are inclined to agree with the following statement made by a former Commandant of the Coast Guard:

> The economy and efficiency in having one Federal police force on the seas to enforce the complexity of laws relating to customs, navigation, shipping, fisheries, immigration, quarantine, neutrality, oil pollution, and other miscellaneous laws, as well as to carry out other miscellaneous duties of the Federal Government are obvious. One vessel when patrolling the waters of any locality can board a fishing vessel, motorboat, or other merchant craft and can enforce all these laws simultaneously, and at the same time be ready to render assistance to vessels in distress. Likewise, a shore station, while ever ready to save life and property, can readily exercise the necessary supervision over motorboats, fishing vessels, and other water craft in the immediate vicinity to see that all Federal laws are obeyed. * * *[44]

If these varied services were performed by persons only, there would be a stronger argument for their separation and reallocation. But they are performed by persons in conjunction with heavy, complex, and expensive equipment, which it would not be economical to duplicate.

III. TRANSFER OF THE IMMIGRATION BORDER PATROL TO THE CUSTOMS SERVICE OR THE CUSTOMS PATROL TO THE IMMIGRATION AND NATURALIZATION SERVICE

1. *Arguments for.*—The customs patrol and the immigration border patrol are, in a sense, overlapping forces. Their operations take place in more or less the same territory. Because of this fact, it has been thought that considerable economies and other benefits might be brought about by a consolidation of the two patrols. From the beginning of the operation of the two separate patrol forces, much discussion has revolved around the question of their unification and of the establishment of a single united land border patrol force. The possibility of creating such a force under the Coast Guard has just been discussed. An attractive alternative to such a reorganization would be the consolidation of the immigration border patrol with the

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[44] House hearings on Treasury Department appropriation bill for 1935, p. 243.

customs patrol, the consolidated agency to be administered either by the Immigration and Naturalization Service or by the Bureau of Customs.

Consolidation of the two patrols might offer certain administrative advantages. For maximum efficiency, the head of a district inspection or investigating force should have an assistant, for it is impossible for an official to travel, maintain outside contacts, or take personal charge of important investigations and at the same time do his headquarters work as it ought to be done. Consolidation of field offices, by creating a larger field force in each district makes it possible to provide assistants in the field headquarters offices. A larger force would presumably make possible stronger concentration in emergencies. The flexibility of the combined force, however, would depend somewhat on all of its members having the same training. If it were necessary for part of the consolidated force to specialize in customs matters and the other part to specialize in immigration matters, the force as a whole would not be as flexible, as unified, or as economical as it might at first glance appear.

Consolidation would go far to insure continuous cooperation between the two branches of patrol work and the elimination of such duplications and conflicts as now occur. It is evident, however, that extensive and valuable cooperation now takes place between the two forces. It is doubtful whether any serious jurisdictional or operating conflicts have occurred. With regard to the seasonal character of their operations, the two patrols do not dovetail; and, from this point of view, little if any economy would result from their consolidation.

Consolidation, theoretically, would produce a better coverage of the border with the present personnel or would result in economies through reduction of personnel. At a few customs stations the customs inspectors have for some time performed also the work of immigration inspectors, or vice versa. Consolidation might in some cases contribute to the convenience of the public, although it is not clear that the public is frequently or seriously inconvenienced by the existence of two separate patrols.

2. *Arguments against.*—Nevertheless, it would be shortsighted to arrive at a decision on this question from a study merely of the two patrols and without regard to the functions, activities, and needs of the Bureaus under which these patrols operate.

Each patrol is a means to an end. Neither could act as an independent agency. Both are established primarily for auxiliary law-enforcement work. Coordination is, of course, necessary between the immigration border patrol and the customs patrol; but it is even more necessary that coordination should be achieved between the customs patrol and the other branches of the Customs Service, as well as between the immigration border patrol and the other branches of the Immigration and Naturalization Service. If the field organization of the Immigration and Naturalization Service were dismembered and if the immigration border patrol were directed by some authority other than the Commissioner of Immigration and Naturalization, it would be necessary at once to establish a means of coordinating the patrol with the inspection branch of the Immigration Service. The problem of coordination thus created might be more difficult than the present problem of coordinating the two separate patrols. It would seem that, inevitably, considerable damage would be done to the continuity and unity of operations within the Immigration Service. Moreover, the Commissioner of Immigration and Naturalization could hardly be held responsible for results, if he were shorn of complete control over one of his indispensable instruments of enforcement. The relative importance of the Immigration and Naturalization Service in the Department of Labor and the fact that the Service is predominantly a field force suggest that any division of the field force or any transfer of functions and personnel to another department should be undertaken only after the most careful consideration.

Substantially the same line of argument may be used against a transfer of the functions and personnel of the customs border patrol to the Immigration and Naturalization Service.

An example of auxiliary enforcement work performed by one agency for another may be found in the investigations conducted by the Enforcement Division of the Alcohol Tax Unit for the Federal Alcohol Administration. It is not known whether the rendition of this service is satisfactory to both agencies. It should be noted, however, that although the functions and purposes of the Alcohol Tax Unit and of the Federal Alcohol Administration are different, their jurisdictions are practically identical with respect to territory, persons, and establishments. Although Federal Alcohol Administration was made an independent establishment by the act of June 26, 1936 (49 Stat. L. 1964), this act has not taken effect as the Administrators have not been appointed.

IV. LOCAL INTERCHANGES OF PERSONNEL AND FUNCTIONS

Overlapping between Customs and Immigration appears to be a more important problem with respect to the inspectors than it is with respect to the patrol forces. It is possible that some economies might be effected by transferring the duties of immigration inspectors to customs inspectors or vice versa at certain ports of entry, in addition to those places where the inspection duties of one service are now performed by the other. It is also possible that in selected areas, where conditions are particularly favorable, one patrol might do the work now done by both patrols. It is suggested that studies with a view to local and experimental consolidations should be made jointly by the Customs Bureau and the Immigration and Naturalization Service.

D. Better Coordination

I. THE HEADS OF LAW-ENFORCEMENT AGENCIES SHOULD GET TOGETHER

We find among Federal law-enforcement agencies indications of much cooperation and a general recognition of the need of cooperation. These are evidences of overlapping, it is true; but, on the whole, they are healthy symptoms, since they show that jurisdictional difficulties can be met, in a measure, without drastic reorganization. An effort seems to have been made by the agencies to define jurisdictions and to arrange division of work where overlapping occurs. Cooperation sometimes takes the form of a joining of forces in an investigation or campaign. As a day-by-day practice, however, cooperation more frequently takes place through the interchange of information and the performance of services by one agency for another. Nevertheless, among a few agencies jealousy and antagonism exists. Every effort should be made to establish cordial feeling, for it is only through mutual acquaintance and mutual respect that cooperation and coordination can be insured. The unfavorable conditions that exist at present might be, in large part, removed if the President were to instruct the heads of the law-enforcement agencies not only to refrain from "sniping" tactics but also to get together at least monthly for an informal discussion of their common problems.

II. EXECUTIVE POLICY WITH REGARD TO PUBLICITY AND THE GIVING OF CREDIT SHOULD BE DEFINED

Some of the difficulty at present appears to be due to the fact that different agencies follow different practices with respect to publicity, propaganda, promotion, and the public giving of credit to other agencies. These practices might well be reexamined, their purposes defined, and their proper limits fixed.

III. A FEDERAL COORDINATOR UNDER THE PRESIDENT

If the suggestions under (I) and (II) are not adopted, or, if adopted, do not produce the desired results, consideration might be given to the establishment of an expert coordinator, possibly in the Bureau of the Budget, with no statutory powers but with the duty of studying overlappings, duplications, and conflicts and making recommendations to the President and the Director of the Budget Bureau, as well as the heads of the departments concerned and the various law-enforcement agencies.

IV. COORDINATING COMMITTEES

As an alternative to (III), consideration might be given to the establishment of a central coordinating committee and regional coordinating committee, to consist, both in Washington and in the field, of representatives of the Departments of State, Treasury, Justice, Post Office, and Labor. It is suggested that a way might be left open for the admission of other departments and independent establishments to representation in the proposed committees. The usefulness of a coordinating committee depends to some extent on its size. It should be a working committee of those law-enforcement officers whose operations require coordination. It should not include officials who may engage in auxiliary or internal law enforcement and whose activities have in practice only a rare or occasional relationship to the law-enforcement activities of the Departments of Justice, Treasury, Labor, and Post Office. Naturally, the Director of the Budget should be authorized to meet with the central committee at any time; and he should find in the committee a useful channel for carrying out the studies which may be necessary to determine in detail what savings are possible without sacrificing administrative effectiveness. No such coordinating committee should have anything but advisory functions; but each committee should appoint a secretary, and a stenographic record should be made of all discussions. The law should provide that each committee should hold a regular meeting at least once a month, on a fixed date, and special meetings on other dates when called by the chairman.

V. CENTRALIZATION OF CERTAIN ASPECTS OF TRAINING

Certain subjects are more or less common to the postentry training courses of all law-enforcement agencies; for example, the law of evidence; the law of searches, seizures, and arrests; relations with prosecuting officers; evaluation of clues; handwriting; use of small arms; first-aid; jiujitsu; etc. Consideration might be given to the centralization of such aspects of training, and the logical place would seem to be in the Department of Justice. The bringing together in one place of all law-enforcement recruits for at least a portion of their training would not only seem to be in the interest of economy, but it would have the incidental effect of getting the new law-enforcement agents acquainted with one another and thus furthering cooperation and coordination in their subsequent operations.

E. Further Studies Needed

I. POWERS OF ARREST

It is suggested that better coordination among law-enforcement agencies might be obtained if a careful study were made of the laws, regulations, and policies dealing with their powers of arrest. Some of these agencies are understood to have rather comprehensive powers in this respect. Others appear to be more or less restricted to those offenses which lie within their special jurisdictions. The Commissioner of Narcotics states, for example, that officers of his Bureau have no power of arrest for other than Federal narcotic-law violations. Of course, any Federal officer has the same right of arrest as a private citizen; and in practice Federal officers with restricted powers make arrests which they have, strictly speaking, no legal right to make. It would seem that to attain the full measure of coordinated effectiveness the officers of all agencies should be equipped with equal and unequivocal powers. This problem, obviously, has legal aspects which require examination. Questions of policy should also be carefully considered.

II. IDENTIFICATION WORK

It is possible that minor savings might be effected by a more complete centralization of identification material and identification work in the Bureau of Investigation. The facts available in the present study show that several separate identification files are now maintained. Further study is required to ascertain whether or not unnecessary duplication exists. The identification records of the Bureau of Investigation are widely used at present, and other Federal agencies are contributing to the Bureau's collection. Some gains might be made by standardization of procedures, if not by centralization of files; and this whole subject might advantageously be looked into by the heads of the law-enforcement agencies, by the coordinator, or by the coordinating committee previously suggested.

III. DISTRICTING AND LOCATION OF FIELD OFFICES

It is possible that coordination, leading to greater efficiency and economy, might be furthered by some redistricting or by a rearrangement of office space for law-enforcement personnel in selected regions.

IV. UNIFORM STATISTICAL REPORTING BY FEDERAL AGENCIES

Except for the figures compiled by the Department of Justice from reports made by United States attorneys and those which are incidental to financial reporting, each of the law-enforcement agencies appears at the present time to be going its own statistical way. Comparative and really informative statistics are badly needed. Serious as are the obstacles to the establishment of a uniform system of reporting, it is believed that some progress could be made if a thorough cooperative study were undertaken. It would seem that each agency could at least record and publish some indication of the investigations or arrests which are made jointly or cooperatively with other agencies, particularly with State and local agencies. The publication of such information would not only be of genuine value, but it would also promote cordial feeling and pave the way for further cooperation.

F. Summary of Recommendations

The following measures are recommended:

1. Transfer of the general criminal law-enforcement functions of the Secret Service Division to the Bureau of Investigation.
2. Transfer of the general criminal law-enforcement functions of the post-office inspectors to the Bureau of Investigation.
3. A joint study of the Bureau of Customs and the Immigration and Naturalization Service with a view to local consolidations and local interchanges of personnel and work.
4. An instruction by the President addressed to the heads of law-enforcement agencies to get together at least monthly for an informal discussion of their common problems.
5. A reexamination and definition of executive policy with regard to publicity and the giving of credit in law enforcement.
6. As alternative to, or supplementary of, (4) and (5), the establishment under the President, possibly in the Bureau of the Budget, of a Federal coordinator of law enforcement.
7. As alternative to (4) and (5) and as alternative or additional to (6), the establishment of a central coordinating committee and regional coordinating committees, to consist of representatives of the Departments of State, Treasury, Justice, Post Office, and Labor.
8. Centralization in the Bureau of Investigation of certain aspects of the training of law-enforcement officers.
9. Further study of (*a*) powers of arrest; (*b*) the possibility of a more complete centralization of identification work; (*c*) the possibility of further redistricting and rearrangement of office space for law-enforcement personnel in selected regions; and (*d*) uniform statistical reporting by Federal agencies.

The following measures have been considered but are not recommended:

1. Centralization of all Federal law-enforcement work in the Bureau of Investigation of the Department of Justice.
2. Transfer of the Bureau of Narcotics to the Bureau of Investigation.
3. Transfer of the Enforcement Division of the Alcohol Tax Unit to the Bureau of Investigation.
4. Transfer of the customs patrol and the immigration border patrol to the Coast Guard.
5. Distribution of the functions, equipment, and personnel of the Coast Guard among the various other executive agencies which make use of floating equipment.
6. Transfer of the immigration border patrol to the Customs Service or the customs patrol to the Immigration and Naturalization Service.

MANAGEMENT SURVEY OF THE BUREAU OF CUSTOMS

DEPARTMENT OF THE TREASURY

January 1948

III

ENTRY AND INSPECTION OF IMPORTED MERCHANDISE

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CHAPTER III

ENTRY AND INSPECTION OF IMPORTED MERCHANDISE

* * * * *

This is only one chapter of our report on the management survey of the Bureau of Customs. It has been bound separately to facilitate its use by the personnel who will implement the recommendations contained herein. Because of the interrelated nature of the work of the Customs Service, all nine chapters should be read in order to get a complete picture. It is particularly important that the personnel who are installing recommendations be familiar with the entire report. This is essential in order to ensure that they will appreciate the effect on other operations of the changes they are making. For the reader's convenience, a table of contents for the entire report has been included in this volume. The reader who does not have time to study the entire report is urged to read Chapters I and II which contain the introduction and a summary of findings and recommendations.

CHAPTER III

ENTRY AND INSPECTION OF IMPORTED MERCHANDISE

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assisting where needed. It may prove desirable for the present investigators now under the Customs Agency to be transferred to operate from this new division, although this is not a definite requirement of the plan. Appropriate information could easily be disseminated from this central office for assisting exporters in making applications for drawback.

An analysis of present drawback operations, excluding inspection of export shipments, indicates that the approximate annual cost is $425,000. We believe that it would be reasonable to expect about 20 to 25 percent reduction in present costs as a result of centralizing certain drawback activities. A rough estimate would place the possible annual savings from $100,000 to $120,000.

This organization and procedure change will require further study. The savings and service opportunities are sufficiently attractive, we believe, to warrant careful consideration of such a change. Revisions in Customs regulations* would be required to effect this proposed consolidation of drawback activities.

Coordinate Activities of Customs and Immigration Officers

A closer coordination of activities of Customs and Immigration officers is essential since their duties require that they work together at ports of arrival to handle incoming travelers. While this coordination is apparently carried out effectively at most small ports, many instances of lack of joint planning were observed at larger ports.

At several border ports the coordination is carried to the extent of having one man perform the activities of Customs and

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* - Section 22, Customs Regulations, 1943

Immigration. For example, at Whitlash, Montana; Ferny, Washington; and Cannon's Corners, New York, and at several other border ports, a Customs or Immigration officer handles all Customs and Immigration work while on duty.

But there is an apparent lack of such coordination at many seaports. A case in point was a situation we observed at San Francisco. There Customs officers had boarded an inbound passenger ship in the outer bay so that baggage declaration papers could be in order by the time the vessel docked, thus permitting speedy processing of passengers and their baggage. However, Immigration officers did not board the ship until it docked. As a result of waiting for passengers to be processed by Immigration, there was a large force of Customs inspectors and examiners who were unoccupied for a large portion of the day.

Another example was observed at the Detroit tunnel. Here a Customs inspector and an Immigration officer were assigned to each lane of automobile traffic. Each officer asked his set of questions of the occupants of each car. While one man did his job, the other waited. And the line of traffic waited also. In either case, if the car occupants were in any way not "routine", the driver was directed to drive over to a secondary location for more detailed examination of evidence of citizenship, or of dutiable merchandise. We believe that the "preliminary screening" of transients could be performed by one man who, if he finds the passengers or purchases not immediately satisfactory, would direct the auto to a secondary Immigration or Customs location for more detailed examination.

It is recommended that the Commissioner of Customs meet with the Commissioner of Immigration and Naturalization to develop a plan wherein their personnel would be able to coordinate activities wherever the operations of one affects those of the other. In addition, it is recommended that they endeavor to extend, at both seaports and border ports, the combination of these two activities for purposes of over-all economy and improved public relations.

IMPROVEMENT IN FACILITIES

At almost every port visited in our management survey of Customs, we inspected the facilities which were used in the conduct of office or outside work. We did not make any detailed layout or equipment studies at any port, but did observe whether or not: (1) the location of the Customhouse, office or other facility was appropriate, (2) the amount of space provided for the work was adequate, and (3) the equipment used in performing the Customs activity appeared to be efficient.

It is our general opinion that many Customs facilities are inadequate for the job to be done. This observation is based upon our experience in working with private industrial companies, where progressive management gives important consideration to the location, size and suitability of any facilities provided for field work.

A later chapter in our report, which deals with administrative organization, will discuss the need for expanding industrial engineering activities in the Bureau. It is not intended that this activity be a "central office desk job", but one which is performed primarily in the field. We believe that in connection with entry and inspection work, application of skilled industrial engineering techniques would do much to improve the efficiency of layout, location and equipment in the field.

(g) Waiving filing entry papers for certain duty-free items

(h) Authorizing Collector to pay bonded cartmen for transferring unclaimed merchandise to General Order or bonded warehouses

(i) Limiting the term of effectiveness for a permanent exhibition bond to ten years

(j) Prescribing the use of loose-leaf books or modern card records for indexing instruments of title and mortgage certificates of vessels

(k) Limiting the term of effectiveness of drawback rate to five years

(l) Experiment with the use of the Inspectroscope for inspection and examination of imports.

5. Certain methods and procedures in New York can be improved through development of corrective measures for:

(a) Expediting delivery of examination packages from docks and piers to Public Stores

(b) Speeding up procedures for handling protests

(c) Improving means of checking damage or shortage of imported merchandise before acceptance by bonded cartmen for transportation to Public Stores or bonded warehouses

(d) Possible elimination of progress books used to record movements of documents between divisions of the Collector's Office

(e) Eliminating unnecessary duplicate checking and recording of work performed in other divisions.

6. Certain organizational changes will improve the performance of Customs work in connection with the entry and inspection of merchandise. This can be done by:

(a) Consolidating Collectors' liquidating activities

(b) Centralizing certain drawback activities in the Bureau

(c) Coordinating activities of Customs and Immigration officers.

7. Improvements in facilities are required in order to make Customs work in the field more efficient: The space provided, the quality of the buildings, and the layout of Customhouses and outside inspection facilities can be greatly improved. Also, more efficient handling and weighing facilities are required (these are discussed in detail in Chapter V).

The benefits which would be obtained from these recommendations have been pointed out in our discussion of each one. They are all targeted toward improving the economy of operations and the service to the importing and traveling public.

In some cases it has been impossible to evaluate the dollar savings which would result: In others, rough estimates have been made, based either on such data as were available or on our experience in industry. In other words, some cost estimates are necessarily based on limited data and were arrived at by consideration of comparable elements involved or through discussions with Customs personnel familiar with the operations.

Provided effective direction is given to the program, adoption of all recommendations described in this chapter should yield annual savings ranging between $2,000,000 and $2,500,000, based on present volume of transactions. As already pointed out, initiation of our proposals will require changes in both laws and regulations. The portion of savings which would require legislative changes is between $1,600,000 and $2,000,000. The portion which would require only changes in regulations is between $400,000 and $500,000.

MANAGEMENT SURVEY OF THE BUREAU OF CUSTOMS

DEPARTMENT OF THE TREASURY

January 1948

IX

EFFECTIVE MANAGEMENT FOR THE CUSTOMS SERVICE

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CHAPTER IX

EFFECTIVE MANAGEMENT FOR THE CUSTOMS SERVICE

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I - Present Plan of Organization - Bureau of Customs

II - Map of U. S. Customs Ports

III - Present Plan of Organization for Collector's Office at Port of New York

IV - Number of Employees and Aggregate Salaries - Collector's and Surveyor's Office - Port of New York

V - Proposed Plan of Organization - Bureau of Customs

VI - Operations Cost Analysis for the Fiscal Year 1947

2. Enforcing compliance with those standards

3. Furnishing adequate advice and assistance to operators in determining size, location, layout and expansion provisions for such facilities.

Our earlier discussion of organization recommended establishment of a Director of Engineering and Methods at headquarters. The development of standards and all advisory activities would be performed by his division.

CUSTOMS AND IMMIGRATION SERVICES

At any seaport, and at most border ports, Bureau of Customs and Immigration and Naturalization Service employees work side by side. This has raised the question on the part of the traveling public, "Since these are both Federal officers, and their jobs appear similar, why shouldn't one Federal service perform both jobs?"

The Customs Service is mainly concerned with the importation or exportation of merchandise. By and large this involves no problem of persons. The Immigration and Naturalization Service is interested in the status of the person - whether he is authorized to enter the United States. In some operations, such as those at border points and those concerning the baggage of passengers on ocean vessels or at airports, operations of the two services are performed almost simultaneously.

From the traveler's viewpoint, he should have to contact only one representative of the Federal Government when entering or leaving the United States. However, specialization of employees is necessary to some extent. And at present, the responsibility for carrying out two separate sets of laws has been vested by Congress in two separate Federal agencies. There is a dilemma created thereby. If two completely separate and distinct services are maintained, a poor public relations situation is created and accusations of inefficiency and duplication of Federal services will be made by the public. On the other hand, policy and procedure directives emanating from two separate sources to enforcement officers who are on a single payroll would create a serious administrative problem. Adequate enforcement of both sets of regulations by men responsible to two supervisors would be difficult to ensure. Success would depend on appropriate reorganization of the two services, a matter requiring suitable legislative changes.

We are not in a position to recommend such a form of reorganization, as our detailed study concerned only the Bureau of Customs. Study of the Immigration and Naturalization Service was outside of the scope of this survey.

However, from the standpoint of Customs, we believe that there are several possible points where some form of joint or consolidated operation would work well. Such a combination of activities should provide the following benefits:

1. Expediting operations

2. Reducing costs in some cases

3. Creating better public relations and improving the handling of the public by the two services.

Our study suggested a number of areas where advantages might be obtained. The problems in each case are different, but in each instance joint or unified operations appear feasible from Customs point of view. These areas are:

1. Small border stations, airports or seaports: Small border stations, airports or seaports, where traffic is

limited and work load light. One individual might perform both functions. At present this is accomplished to some degree by dual designation, but this practice could be extended further we believe. We understand that the Customs Service is currently exploring this possibility.

2. Large-volume border crossing points: The suggestion has been made that one man ask the preliminary questions for both Immigration and Customs at heavy traffic points. Persons requiring no further investigation would be cleared with one stop. Those required to make an entry of merchandise or to supply certain Immigration information, or to obtain other clearance, could be handled at a secondary location. We have described this procedure in more detail in Chapter III.

3. Border patrol activities: The problem here is one of combining patrols of the two services covering the same border. Proponents of this plan believe that it would reduce the total number of Government employees required along the border, and thus reduce cost and provide better coverage of the border. This plan is further discussed in Chapter VII.

* * * * *

A conclusive solution to this problem can probably best be obtained by a complete survey of the work of both services at these points by a disinterested party, or by a joint committee representing the two departments concerned. We believe that in so far as Customs is concerned, properly conceived joint or consolidated operations could be effected with considerable benefit.

CUSTOMS MARINE ACTIVITIES

Title 46, United States Code (Shipping) is the main body of law governing the so-called marine activities of the Bureau of Customs. This body of law covers the creation of a "Bureau of Marine Inspection and Navigation" in the Commerce Department.

On February 28, 1942, however, the Bureau of Marine Inspection and Navigation was abolished and its functions transferred to the Coast Guard and Customs by Executive Order No. 9083 under authority of the First War Powers Act. This transfer was made permanent by Reorganization Plan No. 3 of 1946.

Some idea of the cost to Customs of the major marine activities can be obtained from the following approximate data for the fiscal year 1947, which were compiled in connection with the work-load analysis referred to elsewhere in this report.

Activity	Number of Transactions	Approximate Annual Cost
Vessels entered (and boarded)	63,914	$ 472,000
Vessels cleared	66,325	326,000
Documents issued and licenses renewed	35,168	279,000
Mortgages, bills of sale, and abstracts of title recorded	13,946	41,500
Abstracts of title issued	3,053	19,800
Total cost of these marine activities		$1,138,300

The major items of revenue obtained by Customs from marine work in the fiscal year 1947 were:

Tonnage taxes	$2,778,072
Navigation fees	269,335
Navigation fines	27,257
Total	$3,074,664

There are two major aspects of this area of Customs work:

1. The substantive nature of the laws
2. The organizational location of these functions within the Treasury Department.

With respect to the substantive nature of the law, it was pointed out to us that there has been no general revision and codification of navigation statutes since 1874. All of the statutes then in force were assembled in code form. Additions have been made since that time to meet particular requirements. As a result, therefore, some statutes are wholly or in part obsolete or have been superseded, while others are redundant, ambiguous or ill suited to present conditions. Thus, these navigation laws are considered to be a hodge-podge of statutes adapted primarily to shipping conditions which prevailed in the late 18th and early 19th centuries, difficult to administer and in many respects burdensome to shipping, without serving any essential official need. It has also been pointed out that there are about 40 major penalties provided as well as many miscellaneous fines and certain minor charges.

This whole field is very intricate. The particular methods of assessing tonnage taxes, fines, admeasuring vessels, and determining other charges, have been arrived at by retaliations, reciprocities and agreements over many years. Therefore, effecting a remedy or solution for the complicated problem is not a simple matter.

The Bureau of Customs has been engaged over a period of the last four years in the recodification of marine laws. It is expected that this recodification work will be ready within the next few months. Among the changes which the recodification will recommend are:

1. Twenty-eight different forms of documents now issued to vessels under different conditions, depending upon size, trade, place of construction, former ownership or flag and other factors should be consolidated into one form.

2. A new system of renewing these documents, similar to that now issued by the various states in renewing automobile registration, should be adopted.

3. Fees should be collected for a number of services now rendered without charge.

4. Certain fees now collected should be abolished.

Many other similar modifications will also be recommended. This recodification will greatly simplify the marine work in the Customs Service and will aid the vessel-owning public.

With respect to the organizational location of these functions within the Treasury Department, there are two choices - either in the Customs Bureau or the Coast Guard. To ascertain which of these alternative locations would be most desirable would require separate consideration for each of the five main functions involved:

1. Documentation of vessels (now performed by Customs)

2. Registration of motor boats (now performed by Coast Guard)

3. Entry and clearance of vessels (now performed by Customs)

4. Shipping Commissioner function (now performed by Customs and Coast Guard)

5. Admeasurement of vessels (now performed by Customs).

In our opinion, however, the location of the supervisory organization within the Treasury Department, in Washington, is of relatively minor importance from an organizational standpoint. The important aspect of the location and division of the marine functions is the effect of this work upon shipping.

There are three basic tenets upon which the division of functions might eventually be decided:

1. Those activities which are performed mainly on the water should be the responsibility of Coast Guard as contrasted with those which are mainly port functions and which, therefore, should be the responsibility of Customs.

2. Those activities which are performed mainly in connection with the ship itself and are more or less one-time or annual-repetitive operations should be the responsibility of Coast Guard as contrasted with those activities which are mainly incidental to foreign trade and therefore tied in with the movement of merchandise.

3. Preferably the public should deal with only one point in the Treasury Department in connection with a given marine transaction.

It is doubtful that any savings would be made from organizational changes. It would seem, however, in view of the total cost of this work - exceeding 1 million dollars per year - that a more thorough study of marine activities would be justified within the Treasury Department.

On the basis of preliminary findings the following division of work would appear practical:

1. There are certain evidences that the documentation of vessels and the registration of motor boats might logically be combined in one division of the Treasury Department. However, there does not appear to be any duplication of effort or any inconvenience to the public involved in the present split up of functions. Nor would there be any savings if these functions were reorganized. These functions, therefore, should probably remain where they are at present.

2. The entry and clearance of vessels, which is now lodged in Customs, seems to be properly assigned because this is an activity which is normally incident to the importation of merchandise. It is also very closely connected with the payment of penalties, fees, and with the actual movement of the vessel incident to trade.

3. The Shipping Commissioner function includes a number of items among which are the licensing and certificating of merchant mariners, the investigating of marine personnel delinquencies together with the assessment of penalties therefor, the signing on and off a crew on a particular vessel, and the investigation of marine casualties. In any particular area where Coast Guard facilities are not available, Customs now acts as the Shipping Commissioner. We believe that this occasional assignment is probably the most economical arrangement from the over-all Treasury Department point of view. However, considerably more study would be required before final determination could be made of the proper location of these functions.

4. Admeasurement of vessels seems to be an activity more closely connected with the vessel itself and with marine engineering (including safety inspection) than with a particular trade voyage. It is possible that the tonnage determination of a vessel, which is necessary to Customs for computing

tonnage tax, could be performed by the Coast Guard. Additional study of this idea would also be necessary.

* * * * *

It should be re-emphasized that the main savings in the field of marine activities can no doubt be effected by changes in legislation. The Customs Service is already working on this project. In considering such changes in legislation it may be desirable, in view of the present emphasis of the United States on increasing its foreign trade, to consider the elimination of many of the petty and troublesome requirements in this field. At one time it is understood that some of the tonnage taxes which favored American vessels were used as a method of encouraging American shipbuilding and trade. Since tonnage taxes are now applied equally to all vessels of the same size, this objective is no longer significant.

SERVICES PERFORMED FOR OTHER GOVERNMENT AGENCIES

Customs regular operations give them certain controls over all in- and outbound merchandise. Because of this they have been directed to administer laws or portions of laws for other Government agencies whose concern is not with duty collection or the prevention of smuggling. For example, during the war Customs was assigned the job of ensuring that exports moved only in accordance with export control regulations. Incidentally, in performing this task the Service earned a splendid reputation for exercising effective control without hindering the flow of war materials. Customs is still handling export control work, but is not actually examining exported merchandise.

Over the years a large number of other similar tasks have been given to Customs. A list of current services rendered by Customs to other Government agencies is shown in Appendix A.

The addition of this "outside" work increases the cost of Customs operations and the administrative complexities of the over-all job. While this is undoubtedly the best Government group to perform this work, we believe that:

1. The Bureau of Customs should be consulted before being assigned the jobs, in order to take advantage of their suggestions of the best means for fitting the job into their over-all work load.

2. Consideration should be given to the cost of performing these services when new jobs are assigned or appropriations made. No figures are available as to exact present costs but they might well amount to 1 million dollars per year, since the handling of export declarations alone amounts to over $600,000 per year.

3. Present assignments to Customs should be reviewed to see if other agencies would be the more logical group to perform the work. For example, at the request of the State Department, the Customs Service at Honolulu inspects all passports of passengers going foreign. This is particularly costly at the airports, since the departures out of Honolulu are very frequent. The work is done for the Army and Navy, as well as for all commercial airline passengers flying to the Orient.

This is probably a necessary function - but there is some question whether Customs should do it. There are Immigration men available to check all incoming passengers as well as all outgoing passengers to the United States (to prevent certain aliens who, though residents of the Islands, cannot legally come into the continental United States). Therefore, this activity can probably be performed more effectively by the Immigration Service.

MANAGEMENT SURVEY OF THE BUREAU OF CUSTOMS

DEPARTMENT OF THE TREASURY

January 1948

VII

PROTECTION, INVESTIGATION AND ENFORCEMENT

Work Copy

McKinsey & Company
Management Consultants

CHAPTER VII

PROTECTION, INVESTIGATION AND ENFORCEMENT

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I - Map Showing Location of Port Patrols, Agency Service Districts and Border Patrol

II - Present Plan of Organization for Customs Enforcement Activities

III - Traffic Volume and Deployment of Men at Ports Covered by Port Patrol Officers

The Customs Agency Service is really the detective branch of Customs. Its work is performed primarily to apprehend violators or to develop facts pertaining to suspected violations. It therefore does not act primarily as a preventive.

In some cases, particularly with respect to smuggling, Agents use informants and buy information. As we shall see later, on the Mexican border, for example, both the Customs Agency Service and the Border Patrol use this technique to prevent smuggling.

Beyond the organization suggestions which will be made at the end of this chapter, we have only one recommendation to make pertaining to the Customs Agency Service. That is to relieve this Agency of responsibility for investigations of applications for drawback rates. This job is not closely related to their other investigative work. It is our opinion that these drawback cases require accounting and production engineering talents primarily. Therefore, we recommend that responsibility for drawback rate applications be placed with the Fiscal and Budget Deputy Commissioner.

BORDER OPERATIONS

Customs border operations cover both the Canadian and Mexican borders which are 4,000 miles and 1,900 miles long, respectively.

Problems which must be met differ substantially between the two. Until the early part of 1947 there were three Customs Border Patrols - covering the Northwest, Northeast and Southwest Borders, respectively.

During recent years Customs employees assigned to border patrol work have been reduced substantially as indicated below:

Date	Authorized Positions for Border Patrols
July 1, 1939	568
July 1, 1946	421
July 1, 1947	203
Dec. 31, 1947	164

Northern Border

In recent times smuggling across the Northern border has been confined largely to local agricultural products. At times in the past, however, liquor and gold were important items.

Smuggling of narcotics has never been so significant on this border as in the South. No narcotics are grown in Canada. Furthermore, Canada has an efficient Customs Service which is vitally interested in keeping narcotics out of that country. Thus, a smuggler would have to get past both Canadian and American Customs to bring dope into the United States along this route.

Present situation: Currently, prevention of smuggling across this border is the responsibility of the eleven local Collectors and the four Supervising Customs Agents assigned to that area. There are no longer any separate border patrols on the Canadian border.

These patrols, totaling about 250 men, were eliminated on March 28, 1947, when Customs appropriations were reduced. We believe that this was a sound move in view of the over-all Customs problem at the time and the nature of Canadian smuggling potentialities.

At the time the patrol was discontinued the Customs Agency Service districts along the border were reinforced by the addition of ten Agents. This was done so that the border would not be left completely open to smugglers.

However, in the course of our survey some Canadian and American enforcement officers along the border indicated that they were apprehensive over the narcotics situation. Most of them were concerned with what might happen in the future. Moreover, one large seizure was made which perhaps substantiates their fears.

Early in October 1947, a large shipment of opium, very cleverly hidden, was seized in Vancouver, B. C., by the Royal Canadian Mounted Police. Customs officials in the United States and in Canada both believe that these narcotics were intended for consumption in the United States. These officials also believe that the fact that this opium had not been taken ashore at any of the United States ports at which the vessel had called, indicated merely that it had not been possible for the smugglers to remove it from the ship without detection. Furthermore, it was believed that the opium was to be taken from the ship at Vancouver and smuggled across the Canadian border into the United States at some convenient point.

This may be the start of a trend but it does not establish clear-cut evidence of increased professional smuggling. These conditions raise two questions, the answers to which will dictate what plans Customs should follow in the future with regard to the Canadian border. Answers to these will only appear with passage of time. The questions are:

1. How far will it be necessary to go beyond present protection measures? No clear-cut evidence exists that major professional smuggling is on the increase. If such evidence appears in the future, additional protection will obviously have to be provided.

In any event, some protection must always be provided, just as insurance if for no other reason. Customs took a step in this direction by adding the ten Agents. It appears to us that no further additions will be necessary until there is further evidence of professional smuggling.

2. How should Customs organize to do the job? This is discussed in more detail later in this chapter. In general, we recommend that Canadian border enforcement be left in the hands of Collectors and Supervising Customs Agents for the present. The smuggling of agricultural items can be handled with reasonable effectiveness by these groups.

When there is concrete evidence of widespread professional narcotics smuggling, the organization should be reviewed and if necessary a border patrol should be reinstated. We do not believe such a step would be warranted now.

Southern Border

The problem along this border centers on narcotics smuggling. Other smuggling such as that of gems occurs, but this border is undoubtedly the most important and active narcotics-smuggling area of all. Mexico is now the source of most opium and heroin and also supplies great quantities of marijuana to the illicit drug trade in the United States. There is a more or less continuous stream of these narcotics from Mexico.

The most recent development in smugglers' methods is the use of airplanes. Specific instances of air-smuggling have been investigated. However, the extent of this new technique is not known, although local officials believe it to be increasing. It appears to us that this might well be true.

The border is 1,900 miles long and in several sections the terrain is conducive to smuggling. The shallow Rio Grande River is no deterrent. Mountainous and desert sections present the best natural deterrents because of the lack of good transportation. Hence, smuggling by air at these points would seem logical.

Present Situation: Enforcement work along the Mexican border is performed by three Customs groups. The Collectors of four border collection districts perform the usual inspection and examination operations at bridge, rail, airport and highway crossing points.

There are two Customs Agency districts along this border. Agents carry out investigations such as those described previously. In addition they work with informants to some extent, buying information and apprehending smugglers. Their work may take them into Mexico to buy information, develop clues or to work with the Mexican Government in carrying out its opium poppy eradication campaign.

The Southwest Border Patrol is charged with covering the territory between points of entry guarded by the Collectors' personnel. They patrol these stretches in cars, on foot, or on horses. In addition to patrolling, they seek to gain the confidence of informants, purchase information, obtain evidence, follow up instances of suspected smuggling and apprehend law violators. Furthermore, in the conduct of their own duties these officers frequently learn of violators of other federal, state or municipal laws. In these cases they take appropriate action to help the agencies responsible for enforcement of the laws.

Organization of the Border Patrol: The Superintendent of the Southwest Border Patrol reports directly to the Division of Investigations and Patrol in Washington. A Deputy Commissioner is in charge of this Division and exercises general supervision over the Patrol.

The Southwest Patrol, with headquarters at El Paso, Texas, is responsible for all of the border area between Brownsville, Texas, and the Pacific Ocean at California, a distance of approximately 1,900 miles. The entire border is considered as one Customs patrol district.

The Patrol, supervised by the Superintendent and an assistant, is divided into four patrol companies, each with a captain in charge and a lieutenant as his aide. Each patrol company is responsible for three or more zones, with a patrol sergeant in charge of each zone. Each zone is divided into two or more unit areas, with a patrol unit leader (or corporal) in charge of all patrol inspectors assigned to the unit area. The number of inspectors is based upon the smuggling problem in the unit area. Inspectors work in pairs because of the hazardous nature of dealing with criminals. The organization of the Patrol is shown in Exhibit VII.

Other enforcement agencies on this border: Customs is not the only Federal agency having enforcement personnel on the Mexican border. The Immigration and Naturalization Service and the Bureau of Animal Industry each has a border patrol. Personnel of these three patrols totals approximately 1,300.

In addition to these patrols are the regular Customs Collector's inspectors, Immigration inspectors and Customs Agents, a total force of about 525 more men, who spend a majority of their time on enforcement work. Other Federal Government units also have enforcement personnel along this same border. Thus it would appear that Federal agencies exclusive of the Army, have a total Mexican Border enforcement personnel of about 1,900, or one employee for every mile of border.

Recommendations

We have four major recommendations pertaining to Customs Southern Border Operations. They are:

1. Initiate action which will eventually organize and develop a combined Federal border enforcement agency: This is a problem which would have to be handled from a Government-wide viewpoint. Therefore, a study should be undertaken by some wholly disinterested group such as, for example, the Bureau of the Budget, whose findings might form the basis for necessary legislative changes.

From our study we see no reason why Customs patrolling could not be handled by a unified border patrol equipped to handle all Federal patrolling duties. Over-all cost to the Government should be substantially reduced due to avoidance of duplicate work, and greater efficiency should result. We recognize that such a program could not be accomplished overnight but urge that it be given consideration now.

2. Utilize informants to a greater extent: We previously indicated that most major narcotics seizures resulted from advance information. The same is true of jewel seizures.

Several Customs enforcement officers with whom we talked indicated that purchasing information was the cheapest and easiest way to detect and apprehend smugglers. They indicated that if given the choice of using $10,000 additional operating funds for information or man power they would prefer to use the money for buying information.

Information is purchased primarily by members of the Patrol and Agency Service. Awards of moiety are also made. Costs of these two items are shown on the following page.

Fiscal Year	Payments to Informants	Awards of Moiety	Total
1938	$83,930	$130,060	$213,990
1939	74,798	117,073	191,871
1940	52,229	102,332	154,561
1941	21,369	25,710	47,079
1942	20,323	23,584	43,907
1943	17,988	26,220	44,208
1944	19,345	16,996	32,063
1945	39,294	15,067	54,361
1946	39,556	19,980	59,536
1947	32,813	9,985	42,798
1948 Appropriation	32,000	20,000	52,000
1949 Request	32,000	20,000	52,000

Our recommendation cannot be carried out unless additional funds are appropriated for this purpose. We were not able to determine exactly how much should be provided. It seems reasonable, however, to expect that a total somewhere in the range of from $100,000 to $150,000 would permit many more seizures to be made. This would be an increase of about $100,000, maximum.

Provision of additional funds would facilitate revision of Customs operations in accordance with the basic concept of smuggling prevention previously discussed. This would place greater emphasis on acquiring information, for dissemination through a central point if necessary. Less emphasis would be placed on actual patrolling, although the borders would not be left wide open. Irregular watching of the areas between border crossings and regular inspections at the crossings would furnish a strong preventive.

3. Test radar as an air-smuggling preventive: No specific information is available on how extensive air smuggling is today. Indications are that smuggling by airplane is more prevalent along the Mexican border than along the Canadian boundary. This is due, probably, to the size and value of the merchandise which might be smuggled from these areas. From Canada, smuggled items are bulky and of relatively low

profitability, such as grain, dairy products, and livestock. Narcotics and gems brought in from Mexico require less space, and are of much greater value.

From the standpoint of enforcement and protection, the crux of the air-smuggling problem centers in private aircraft. The cost of large airplanes is prohibitive for a smuggler's use because the plane will be seized if he is caught. Therefore, today he is forced to use smaller aircraft with relatively small areas of operation. In general, smaller aircraft have a cruising range of 1,000 miles. Light planes, leaving Mexican airports within 100 miles of the border can travel about 900 miles into the United States, beyond Denver, Reno, or Kansas City, for example.

Since there is no means at present by which the volume can be gauged, it is impossible to determine the amount of air smuggling which could be eliminated by the installation of some form of controls. On the other hand, it is inconsistent to provide strong ground controls without establishing more protection against illegal entry by air. All anti-smuggling measures currently used are designed to apprehend ground traffic. However, the use of informants is valuable to some extent in dealing with smuggling by air.

The net result of this information is that no one really knows whether there is a problem here or not, and if there is one, whether it is of major or minor significance. The use of radar seems to be the best method of obtaining intelligent information on these questions - and perhaps solving the problem if one really exists.

The purchase and operation of a complete radar installation for the entire Mexican border would not be practical just to provide Customs with more information. However, the use of radar appears to be the only reliable means of getting such information readily.

Therefore, we recommend that Customs be authorized to request cooperation of the armed services in conducting a test with radar. Presumably the armed services have suitable equipment and adequate personnel who could receive radar training in this work. If such a test is made it should be conducted at unannounced periods over a year or more. Qualified Customs personnel and representatives of other interested Federal agencies should be available to investigate and interpret results.

At the end of such a test sufficient information should be available to determine if there is a real problem and if so, whether radar is the answer.

Consideration can then be given to more definite plans for permanent operation. Perhaps this job could be permanently turned over to a branch of the armed services. Or the Federal border enforcement unit previously recommended might operate border radar equipment for the benefit of all agencies.

4. Reorganize the present Border Patrol: Until such time as a Federal border enforcement unit becomes operative Customs needs a border patrol on the Mexican border. However, we feel that it should operate in such a manner as to place greater emphasis on the use of informants and less on actual patrolling of assigned beats.

Because the activities along the border are conducted by both the Patrol and the Agency Service we will present our recommendations pertaining to the form of reorganization in the following section which deals with organization for all enforcement activities.

ORGANIZING FOR EFFECTIVE ENFORCEMENT

One of the questions frequently asked is: "Why not put all of these activities under one executive responsible to the Commissioner?"

Port Patrols

The opinion of most Customs officials is that this plan is not feasible. And we agree with that opinion so far as port patrol officers are concerned. Problems of daily deployment, the close relationship required with other local Customs operations and general dissimilarity to Agency and border patrol work make it much more desirable to place these men on Collectors' staffs.

However, as we pointed out earlier, the Deputy Commissioner in charge of enforcement work should have greater functional control over port patrol work. This means that he should see that standards of operations are established and complied with, develop modern techniques and equipment for use at the various ports, act as a clearinghouse for information pertaining to smuggling, assist the Collectors with special problems and with technical training programs, and develop work-load data to advise Collectors and the Commissioner on the most effective and economical deployment of men.

Enforcement Supervision

We recommend that the Deputy Commissioner for Enforcement be provided two line assistants. Each of these should be made responsible for about half of the country - divided into northern and southern sections along present district lines. All supervising Customs Agents and the Patrol Superintendent in the section for which each assistant is responsible, should report directly to the Assistant Deputy Commissioner.

We have recommended that the Deputy Commissioner take more responsibility of a functional nature with respect to port patrol officers. This, plus his other work, would appear too large job for one man. The two assistants just described would relieve him of part of the over-all work, ensure that approved policies and practices are uniformly carried out in the field, and permit closer and more frequent contact between the field and headquarters.

Customs Agency Service

The supervising Customs Agents should report to the Assistants to the Deputy Commissioner, in accordance with the division of the country between them. This and the elimination of drawback rate application investigations are the only changes suggested for this group.

Border Patrol

The question of whether the Border Patrol should report to an Assistant Deputy Commissioner or should be broken up into units, attached to proper supervising Customs Agents, would seem to hinge largely on how soon there is likely to be one Federal border enforcement unit. For it seems probable that the Patrol as a whole could be more easily transferred to the combined Federal unit.

In either case we believe that the Customs Patrol should be reorganized in the following manner:

1. It should be organized to make expanded use of information and decreased use of patrolling. This should cut down the number of men required by 25 to 35 percent, in our opinion, or a cost saving of $125,000 to $150,000 per year. Offsetting part of this saving would be an increase of funds for the Patrol's use in buying information, of $50,000 (one-half of the total recommended increase for the entire Customs Service).

2. The military type of organization, military titles and uniforms should be abandoned. A less rigid type of organization would be better adapted to the revised concept of using information. Civilian clothing would likewise seem more suitable.

3. Position descriptions and specifications should be revised in the light of the over-all plan. This would be particularly desirable with respect to age specifications. This is arduous work requiring above-average physical stamina. Therefore, it would be beneficial to all concerned if young men could be brought into the Service and older men transferred to less strenuous duties or retired.

4. The title of the organization should be changed in view of the de-emphasis of patrolling. A title such as "Customs Border Enforcement Unit" would be more descriptive of its actual duties.

Summary

The recommendations previously discussed in some detail are briefly summarized below. All can be accomplished by administrative action - no legislative changes are required.

1. Port Patrol operations

    (a) Reduce the amount of merchandise guarding, where study indicates that other agencies should do more of this work.

    (b) Increase the use of mobile patrols where practicable, thereby reducing costs.

    (c) Expand the use of modern equipment and training to make patrols more flexible and effective.

    (d) Change New York roll-call practices. Test out operations with no roll call. Until results of test are known, decentralize roll call and require supervisors to prepare themselves to drive cars in order to facilitate speedier coverage and inspection of personnel.

(e) Standardize vessel-searching practices to achieve more uniform coverage and practices.

(f) Deploy port patrol officers in accordance with work load to obtain greater uniformity and lower costs.

2. Customs Agency Service

(a) Transfer responsibility for drawback rate application investigations from this organization to the Fiscal and Budget Division.

3. Border Operations

(a) Initiate action which will eventually organize a Federal border enforcement agency to combine the activities of all enforcement units now on the borders.

(b) Watch for evidence on the Canadian border of increased professional smuggling in the future. If this develops, increase the organization to combat it, either through the Customs Agency Service or by reinstating a border patrol, depending upon the extent of the smuggling.

(c) Obtain more funds so that greater use can be made of purchased information to combat smuggling.

(d) Test radar as preventive of smuggling by airplane across the Mexican border.

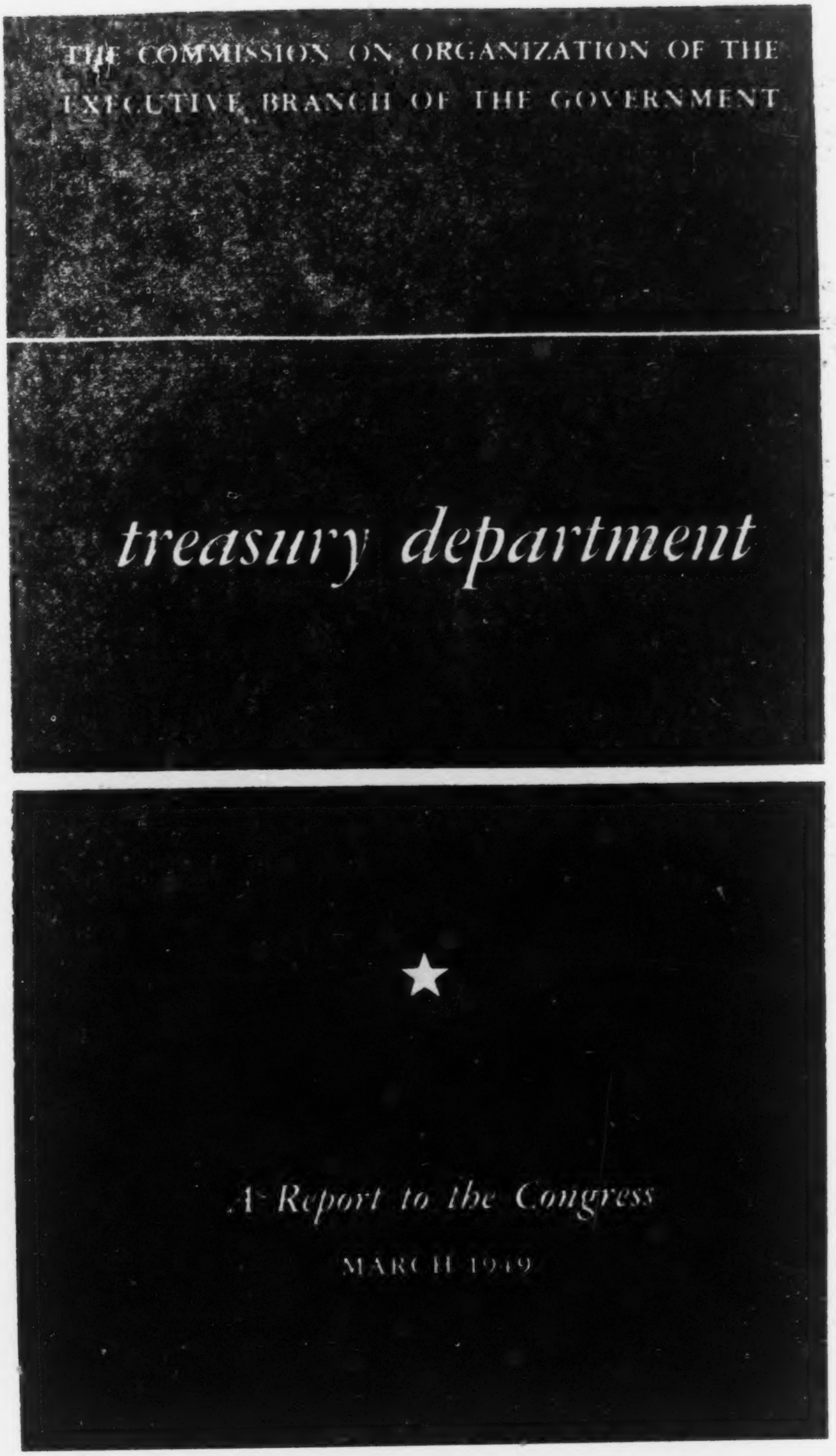
4. Organization

(a) Establish two assistants to the Deputy Commissioner to allow for closer supervision and better coordination of all Customs enforcement work.

(b) Give the Deputy Commissioner increased functional responsibility over port patrol operations so that practices may be kept uniformly modern and deployment of men can be on a basis better related to work load.

(c) Reorganize the Border Patrol in keeping with the expanded use of informants, eliminate its present military nature and call it "Border Enforcement Unit".

We believe that these recommendations will produce substantial savings over the long run. The most important of them, however, will require one to three years of study, testing and experimentation before these savings will begin to develop. For the short term, however, net savings of $50,000 to $100,000 can be made. All of these recommendations will help make Customs enforcement work even more effective than at present.



THE COMMISSION ON ORGANIZATION OF THE
EXECUTIVE BRANCH OF THE GOVERNMENT

treasury department

★

A Report to the Congress

MARCH 1949

The Commission on Organization of The Executive Branch of the Government

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Transferring Nonfiscal Functions

Recommendation No. 1

We recommend that the Department should be thoroughly reorganized along functional lines contributing to its major purpose.

This will require the transfer of the nonfiscal activities from the Department and the incorporation of other appropriate agencies within it.

Recommendation No. 2

We recommend that the following agencies and activities of the Treasury should be transferred to other offices or departments to which they are functionally more closely related:

a. The functions of the Bureau of Federal Supply to be absorbed in the Office of General Services.

b. The United States Coast Guard,[6] and probably certain of the marine functions of the Bureau of Customs,[7] to the Department of Commerce.

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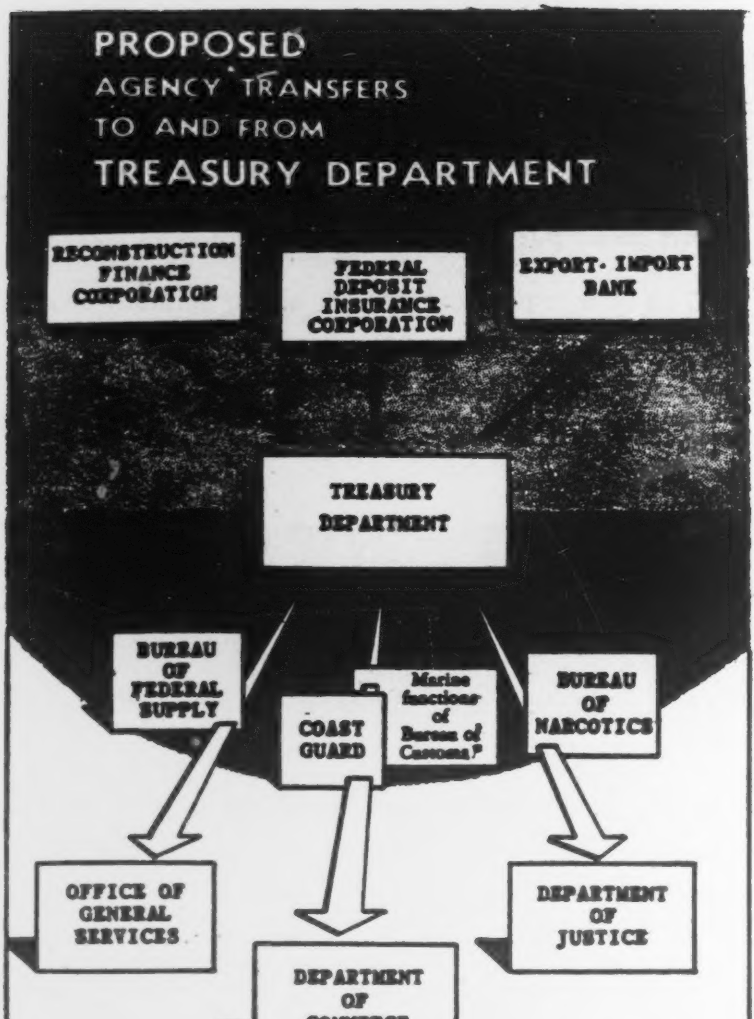
[6] **DISSENT:** Commissioner James Forrestal disagrees with the recommended transfer of the United States Coast Guard to the Department of Commerce.

James Forrestal
Commissioner

[7] In our report on reorganization of the Department of Commerce we have recommended a study to determine which marine functions could advantageously be transferred to Commerce.


PROPOSED
AGENCY TRANSFERS
TO AND FROM
TREASURY DEPARTMENT
RECONSTRUCTION FINANCE CORPORATION
FEDERAL DEPOSIT INSURANCE CORPORATION
EXPORT-IMPORT BANK
TREASURY DEPARTMENT
BUREAU OF FEDERAL SUPPLY
COAST GUARD
Marine functions of Bureau of Customs*
BUREAU OF NARCOTICS
OFFICE OF GENERAL SERVICES
DEPARTMENT OF COMMERCE
DEPARTMENT OF JUSTICE
* To be studied for possible transfer of some functions to Commerce.

THE COMMISSION ON ORGANIZATION OF THE
EXECUTIVE BRANCH OF THE GOVERNMENT

department of commerce

★

A Report to the Congress

MARCH 1949

The Commission on Organization of The Executive Branch of the Government

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Coast Guard and Coast and Geodetic Survey

The Coast Guard is obviously misplaced in the Treasury Department at the present time. The principal functions of the Coast Guard relate to provision of coastal and interior aids and services to air and water navigation. It regulates and inspects provisions for marine safety. Considering the general nature of the work it performs, its location in the Treasury has no reasonable basis. On the other hand, there is need to coordinate its activities with those of the Civil Aeronautics Administration, the Maritime Commission, and with the work of the transportation agencies. Its functions are more closely related to transportation that to the activities of any other major department of the Government.

The major functions of the Coast and Geodetic Survey is to provide aids for water and air transportation.

Marine Functions of the Customs Bureau

The Bureau of Customs of the Treasury Department performs certain marine functions which have to do largely with transportation. They include such responsibilities as the filing with the Collector of Customs of evidence of registry, crew lists, shipping articles and the collection of tonnage taxes. If the ship carries steerage passengers, the space allotted, menus served, sanitary facilities, and the like are checked to see that adequate provision was made for such passengers. When the ship departs, clearance papers, such as manifests of cargo, export declarations, export licenses, and the like are checked and clearance authorized.

Recommendation No. 3

The Commission recommends that a study be made of these marine functions of the Bureau of Customs to determine whether some of them can advantageously be transferred to the Commerce Department.

Civil Aviation

Recommendation No. 4

The Commission recommends that there be established in the Department of Commerce a Bureau of Civil Aviation which would administer the functions listed below, in addition to the present functions of the Civil Aeronautics Administration.

81st Congress } SENATE { Report
2d Session } { No. 1515

THE IMMIGRATION AND NATURALIZATION SYSTEMS OF THE UNITED STATES

REPORT

OF THE

COMMITTEE ON THE JUDICIARY

PURSUANT TO

S. Res. 137

(80th Congress, 1st Session, as amended)

A RESOLUTION TO MAKE AN INVESTIGATION OF THE IMMIGRATION SYSTEM

April 20 (legislative day, March 29), 1950.—Ordered to be printed with illustrations

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H. Relationship Between Immigration and Naturalization Service and Other Agencies

1. RELATIONSHIP TO VISA DIVISION

The present system of divided authority between the Immigration and Naturalization Service and the Visa Division has prompted discussion over the advisability of consolidating these two agencies. Officials of the two agencies insisted, however, that the present separation of functions should be maintained. They pointed to the frequent consultations and cooperation between them on joint problems and contended that the present dual control results in an effective double check on the admissibility of aliens.

It is the opinion of the subcommittee that there should be greater coordination of effort between consuls and the Immigration and Naturalization Service when consuls have information about aliens that would be helpful to the Service.

At present, there is, for example, no information transmitted to the Immigration and Naturalization Service by the consuls concerning an alien granted a visa except that a copy of the fingerprints is forwarded and the visa, including the alien's history, is presented by the alien at the port of entry.

Prior to 1924, an alien's admissibility was determined exclusively at the port of entry by immigrant inspectors after the alien had arrived in the United States. This single check of aliens seeking entry imposed great hardship on some aliens who were found to be inadmissible after breaking all ties at home and making the long journey to this country. After a study of this problem, the Congress provided in the Immigration Act of 1924 for a double check of aliens by separate independent agencies of the Government, first by consular officers before the visas were issued, and by immigration officers after the aliens reached the port of entry.

If a double check was essential 25 years ago to protect the United States against criminals or other undesirables, it is the opinion of the subcommittee that it is even more necessary in the present critical condition of the world to use the double check to screen aliens seeking to enter the United States.

This is not to say, however, that the present system is without its weaknesses, both procedurally and from the standpoint of security. Steps should be taken to establish a central clearing house for information on aliens about to be admitted or already in the United States.

The major argument for consolidation has been alleged abuses or failures by the consuls. It was asserted that consuls sometimes issue visas in doubtful cases, feeling that if the alien is in fact inadmissible that the immigration officials will exclude him at the port of entry.

Visas are issued by consular officers under direct statutory authority. The principal function of the Visa Division is to exercise, on behalf of the Secretary of State, general supervision over diplomatic and consular officers to assure uniformity of action in the performance of their statutory duties. The Immigration and Naturalization Service exercises general supervision over immigrant inspectors, who have certain statutory responsibilities in connection with the admission or exclusion of aliens arriving in the United States.

Some consular officers expressed the feeling that if they had a better understanding of the regulations of the Immigration and Naturalization Service, and were constantly advised of any new decisions or interpretations of the regulations and procedure, that they could do a much better job. One officer stated that regulations and opinions are received from too many sources, and that it would be much better if they were integrated in one volume. He also suggested that the Immigration and Naturalization Service should forward all available information to the various consular offices regarding the reason an alien was excluded, showing why the visa should not have been issued, to serve as a guide in the issuance of visas in future cases. He pointed out that the consuls do not have the same reading test used by the Service in determining whether or not an alien is literate.

A consular officer suggested that, due to the total unfamiliarity of consular officers with the Immigration and Naturalization regulations and procedures, it would be extremely helpful to issue to such officers a comprehensive manual, similar to the one given to immigration officers, and it would also be beneficial to have a series of lectures presented to new consular officers by Immigration and Naturalization officials on their regulations.

2. RELATIONSHIP TO PUBLIC HEALTH SERVICE

Under section 16 of the Immigration Act of 1917, the Public Health Service is authorized to conduct the physical and mental examination of all aliens arriving at ports of entry into the United States. When an alien is found to be suffering from a physical or mental ailment making him mandatorily excludable, there may be an examination by a medical board appointed by the Surgeon General to review the findings of the original examining medical officer.

The only serious criticism voiced before the subcommittee is of the fact that, while the alien may present an expert witness before the medical board hearing his case, the witness is not permitted to testify, but only to answer questions put by the board. The alien may not be represented by counsel before the board.

3. RELATIONSHIP TO CUSTOMS BUREAU

The House Committee on Appropriations authorized a survey of the Bureau of Customs by a management consulting firm. The survey included a study of relations with the Immigration and Naturalization Service. The report suggested that the preliminary screening be carried out by one officer from either service, and that where the applicant was not immediately "passable" he should be directed to a secondary location for more detailed examination by either an immigration officer or a customs officer, depending on the reason for detention. It also suggested a study of a unified border-enforcement agency, equipped to handle all Federal patrolling duties. In April 1948, a letter was sent to the Attorney General quoting the recommendation in the report and suggesting cooperative effort to put into effect the proposed plan. After a conference with the Commissioner of the Immigration and Naturalization Service, it was agreed to make a test of the first suggestion, and the second was referred to the Bureau of the Budget for a study.

A "task force" was appointed consisting of officials from the Immigration and Naturalization Service and the Bureau of Customs, with an observer from the Bureau of the Budget, to carry out an experiment of the consolidated preliminary screening proposal at several larger ports. The plan was put into effect at several points on the Mexican and Canadian borders. The procedure used was to alternate customs and immigration and naturalization men on duty at the port, each of whom inspected all applicants for admission for compliance with the regulations of both services. Where an applicant did not appear to be readily admissible from either an immigration or customs standpoint, he was referred for further examination by an officer of the proper service. The entire procedure was observed by the members of the task force.

At the expiration of the trial period of several weeks, the representatives of the Immigration and Naturalization Service were unanimous in their decisions that the plan was not justified or practical because little savings in manpower was negated by less effective enforcement. It was indicated that if men could be trained to know both Immigration and Naturalization and Customs regulations and procedures thoroughly, there could undoubtedly be consolidation and saving of personnel could be effected. The problem of dual administrative supervision would, however, present great difficulties and might result in lowered morale and efficiency.

The full task force agreed that the plan might be feasible at Laredo and Brownsville but due to certain physical difficulties it was not practical at El Paso. After it had been in effect for some time, the Customs officials recommended that the plan be made permanent at Peace Bridge, Buffalo, Rainbow Bridge, and Niagara Falls, while the Immigration and Naturalization Service men were of the opinion that it was not practical. The Customs officers reported that, if the dual screening procedure were put into effect at the four ports of Laredo, Brownsville, Buffalo, and Niagara, there would be a savings of approximately $72,000 per year.

The reason the task force agreed that the plan might work at the two ports on the Mexican border is due to the difference in the immigration regulations governing persons crossing the Mexican border and the immigration regulations governing persons crossing from Canada. On the southern border, approximately 90 percent of those crossing are documented, so the Immigration and Naturalization inspection amounts primarily to identification. Of the other 10 percent, more than half are white, not Mexicans, so that fewer than 5 percent of the crossers on the Mexican border have to be carefully questioned and inspected. On the Canadian border, fewer than 1 percent of those crossing have documents and nearly everyone must be questioned.

At all ports where the tests were made, the field officers of both Services were opposed to the plan. The Immigration and Naturalization men felt that what little savings would be accomplished in personnel would be lost in the long run due to the increased expense involved in apprehending and deporting inadmissible aliens who had succeeded in entering.

There are 96 land border ports on the Mexican and Canadian borders where Immigration and Naturalization and Customs officers perform the dual functions of inspecting for both services. Immigration and Naturalization officials stated that this works out satisfactorily at these ports because (1) they are class B ports, designated for entry only of aliens who are lawful residents of the United States and who are properly documented, and (2) the traffic at the 96 ports is so very light that the officer on duty has time to refer to appropriate regulations in the event a difficult question arises.

A record was maintained of the operations at the Peace Bridge in Buffalo which indicated that the Customs officers were not enforcing the immigration laws to the extent expected. During 1 month 56 persons were referred to Boards of Special Inquiry, only 2 of whom were referred by Customs officers; during the following month out of 46 referrals, only 3 were by Customs officers; during the following month 7 out of 69 were referred by Customs officers, and during the following month only 1 out of 40 was referred by Customs officers.

During a period of several weeks at Niagara Falls, out of 103 persons held for further examination, 4 were detained by Customs officers. During the same period in the preceding year, 196 persons were held by Immigration and Naturalization officers.

4. RELATIONSHIP TO SOCIAL SECURITY AGENCY

With certain exceptions, all persons in the United States must obtain a social-security card in order to obtain employment. Under the present regulation the records of the Social Security Agency are confidential and are not open to officers of the Immigration Service or any other agency. Aliens smuggled into the United States or abandoning their status as nonimmigrants can apply for social-security cards and seek employment in industry in complete confidence that the records so created will never be brought under official scrutiny of the Immigration and Naturalization Service. Furthermore, it is a well-known fact that a great many aliens have absconded after release or have not been apprehended since their arrival in the United States and social-security numbers of many of these aliens are on file or could be obtained easily.

It has been suggested that the social-security laws be amended to require foreign-born persons applying for social-security cards to give certain essential information by which their status under the immigration laws can be determined and that a copy of the application be furnished to the Immigration and Naturalization Service. If such legislation were enacted, it is believed that illegal entry and abandonment of nonimmigrant status would be considerably more difficult for aliens and less frequently resorted to, and enforcement problems would be reduced and simplified accordingly.

It is the view of the subcommittee that to make available the social-security records of aliens to Government enforcement agencies would be of inestimable value. The Immigration Service, with its present staff of enforcement officers, finds it impossible to cope with the problem of illegal aliens through its own resources alone.

The cooperation of the Social Security Agency in furnishing information regarding the whereabouts of aliens would enable the Immigration Service to apprehend them in many cases without resorting to long investigations.

I. PASSPORT AND VISA DIVISIONS

1. GENERAL

In any consideration of the mechanics of immigration, a review of the work of the Passport Division of the Department of State must be made. Although passports are issued only to citizens, the problem is in reality related to immigration for a number of reasons: (1) A considerable amount of fraud by aliens has been uncovered in the attempts to secure and to use passports, (2) travel abroad of citizens involves the work of consular officials and their return must be checked by immigration and naturalization personnel, and (3) issuance of passports, particularly in the case of naturalized citizens, involves documentation which duplicates or depends on the processes of immigration and naturalization.

It is apparent, therefore, that the work of the visa-issuing offices and the passport-issuing office must of necessity run in parallel channels. The subcommittee has given serious consideration to the proposal advanced by the Hoover Commission for a transfer of the Visa Division to the Department of Justice and its merger with the Immigration and Naturalization Service. As already pointed out, the subcommittee is persuaded to continue the visa process separate from the immigration procedure as an additional barrier to the entry of inadmissible aliens.

The subcommittee does, however, hold that a unification of the documentary phase of travel by both aliens and citizens, should be vested in a single agency.

2. COORDINATION OF OPERATIONS

The Passport Division of the Department of State exercises documentary control over the travel of nationals and citizens of the United States through the issuance or refusal of American passports. The Visa Division exercises administrative supervision over the documentary control of the travel of aliens through the issuance or refusal of visas by American consular officers in foreign countries. Until recently, both Divisions maintained direct and continuous liaison with the Federal Bureau of Investigation and other security and intelligence agencies of the Government. The best interests of the United States would be served if that liaison were reestablished and continued under statutory authority.

The organized movement of subversives and criminals to and from the United States often involves the travel of both nationals or citizens of the United States and aliens in the same organization. To increase the effectiveness of the documentary control over the movements of such individuals or groups, it is desirable to bring the Passport and Visa Divisions of the Department of State into a single Bureau, headed by a Director, who will serve under the general direction of the Secretary of State, with the rank of an Assistant Secretary, and who will be of equal rank with the Directors of the Federal Bureau of Investigation, the Central Intelligence Agency, and the heads of other security and intelligence agencies of the

Government. The new bureau, to be designated as the Bureau of Passports and Visas, is to contain two operating units, the Division of Passports and the Division of Visas.

The recognized difficulty in the adequate enforcement of appropriate travel control measures against subversive and criminal elements, and administration of the complex and highly technical provisions of our immigration and nationality laws, requires the services of an official who is thoroughly experienced in this field and whose loyalty is unquestionable. In the interest of our national security, as well as the efficient administration and enforcement of our immigration and nationality laws, the subcommittee has concluded that certain statutory qualifications should be laid down for the positions of Director of the Bureau of Passports and Visas, Chief of the Passport Division, and Chief of the Visa Division.

The subcommittee further considers that the initial administration and enforcement of our immigration laws at the actual source of aliens in foreign countries through the visa system, which was made a statutory responsibility of consular officers in the Foreign Service of the United States under the Immigration Act of 1924, should be continued. As the members of the Foreign Service have the requisite experience in this field, the subcommittee believes that experienced Foreign Service officers should always be selected as heads of the Bureau of Passports and Visas, as well as the Visa Division of that Bureau, thus continuing a practice which has been long established and has usefully served the interests of the United States.

In order that the Congress may maintain proper surveillance over the administration and enforcement of the law, as well as the cost thereof, the subcommittee recommends that both the Commissioner of immigration and Naturalization and the Director of the Bureau of Passports and Visas should be appointed by the President with the advice and consent of the Senate and that the annual budgets of the Service and the Bureau should be clearly earmarked in the departmental budgets.

J. Conclusions and Recommendations

1. GENERAL

Among the principal points of criticism aimed at the present immigration structure has been the contention that the multiplicity of control by several agencies of various immigration activities should be eliminated. In general, the subcommittee has come to the conclusion that, although there are some points in the mechanism where coordinated action is necessary and duplication must be eliminated, the over-all structural pattern ought to be maintained. The subcommittee is persuaded to the position on the grounds that (1) the distribution of responsibility places additional barriers in the way of undesirable aliens, additional fences of protection which the alien must surmount, and (2) the present system operates satisfactorily and the suggested modifications will eliminate most of the existing difficulties.

One of the areas of clarification which the subcommittee advises is in the legislative allocation of authority to the Commissioner of the Immigration and Naturalization Service. At the present time, authority is vested both in the Attorney General and the Commissioner.

Many fields of authority are ill defined and often responsibilities are placed on the Attorney General which would be more properly handled by the Commissioner. Accordingly, the subcommittee recommends that the administrative authority under the immigration and naturalization laws be vested in the Commissioner, subject to general direction and over-all supervision by the Attorney General.

2. IMMIGRATION SERVICE AND THE VISA DIVISION

There undoubtedly is improvement possible in the present system of having visas issued by consular officers and examinations at the port of entry conducted by officers of a separate agency, the Immigration Service, but it appears that corrections can be made without such drastic changes as consolidation.

If the consular officers were placed under the Immigration Service for the purpose of issuing visas, the divided responsibility and supervisory authority would create an impracticable situation for the personnel engaged in the work.

The solution to the problem of lack of knowledge, experience, and information on the part of consular officials is a better program of information and training, not a change in the organizational structure. It is, therefore, recommended that the regulations, decisions, and interpretations of the Immigration Service laws and procedures be made available to all consular officers engaged in visa work, and that all Foreign Service personnel in the future be given suitable training, by Immigration officials if possible, in the problems confronting both the consular officer issuing a visa and the immigrant inspector conducting the examination at the port of entry.

3. THE IMMIGRATION SERVICE AND THE PUBLIC HEALTH SERVICE

The procedure before the medical boards should be adjusted to permit testimony by expert medical witnesses for the alien and to permit counsel to represent the alien in such proceedings. This could be handled administratively, without legislative action. It would be helpful to have more Public Health doctors overseas to examine applicants before the issuance of a visa. If this is not possible, it appears that more care be used and more strict qualifications be required in the selection of examining physicians overseas.

4. THE IMMIGRATION SERVICE AND THE CUSTOMS BUREAU

It is the opinion of the subcommittee that any consolidation of the functions of the Immigration and Naturalization Service and the functions of the Bureau of Customs should be only in isolated instances such as at class B ports where such consolidation of functions would not impair the enforcement of the immigration laws.

5. THE IMMIGRATION SERVICE AND OTHER AGENCIES

It is recommended that social-security records be made available to the Immigration and Naturalization Service. Before a social-security card is issued to an alien, his status should be checked with the Service or he should be required to furnish sufficient evidence that he is a legal resident.

6. CENTRAL INDEX FILE

It is the recommendation of the subcommittee that there should be established a central index file under the control of the Immigration and Naturalization Service, containing complete information on all aliens in the United States, as well as information regarding aliens in foreign countries who might eventually attempt to immigrate to the United States. This file should include the names of all aliens who have been refused visas, as well as those who have been issued visas. The look-out files of the various districts should be consolidated in the central index so that any immigration district could refer to the central office a request for a name check. Other security and enforcement agencies of the Government should be required to at least furnish the names of aliens on which they have information so that the index would indicate where additional information may be available. With such information centrally located, consuls in foreign countries and Government agencies in this country could be alerted by reference to the central index.

7. VISA AND PASSPORT DIVISION

Because of the close relationship of the Visa and Passport Divisions of the Department of State and their importance in the control of immigration problems, the subcommittee recommends the establishment of a Bureau of Passports and Visas as an independent unit of the Department, headed by a Director with the rank of Assistant Secretary of State and subject to general supervision by the Secretary.

UNITED STATES CUSTOMS SERVICE

INSPECTION OF PASSENGERS AND THEIR BAGGAGE

A CITIZEN'S TASK FORCE

STUDY AND REPORT

JANUARY 1962

January 31, 1962

The Honorable Douglas Dillon
Secretary of the Treasury
Washington 25, D. C.

Dear Mr. Secretary:

Transmitted herewith is the report of the Task Force you appointed last Spring to study Customs inspection of passengers' baggage at Customs ports of entry.

Consonant with your wishes, the study was made independently by our citizens' task force: the conclusions and recommendations are our own. We did, however, consult with and receive the utmost cooperation from the entire United States Customs Service, from Commissioner Nichols on down; from Customs officials of Canada, Bermuda, Nassau, England and France; from transportation and travel companies; from civic associations; from port and municipal authorities; from other Federal agencies concerned with inspectional, travel, or facilities matters; from representatives of the several Customs employees associations; and from the traveling public. We would be happy to have further meetings with the Commissioner and any interested groups if it will assist in taking action on this report to achieve benefits for the traveling public, the Customs Service, and our Nation.

Our mission has been to determine whether existing procedures discourage foreign tourists from travel to the United States, whether these procedures unnecessarily harass travelers and, if so, what can be done to correct the situation. We did not conclude that existing procedures do in fact result in any significant reduction in travel to the United States. We do believe, however, that some unnecessary harassment is present in our total U. S. attitude and procedures toward both the foreign and domestic traveler. Our conclusions and recommendations suggest some of the things within the jurisdiction of Customs that need to be done.

Many of the "customs clearance" aspects which might tend to discourage travel are quite outside Customs control. Moreover, many of the real deterrents to visits to the United States appear to involve such things as domestic prices, our predominantly uni-lingual U. S. society, and entrenched tourist competition from countries to which transportation costs are less.

You will find that we make few distinctions in the report between the procedures to be applied and treatment to be accorded visitors and returning Americans. However, several of our principal recommendations do stress the critical need for improved language skills, improved attitudes toward visitors, and opportunities for institutional and personal diplomacy. We feel certain that Customs inspectors and their employee organizations will join forces with management in a unified approach to these problems. The National, Service, association and individual objectives are -- we believe from our field discussions -- in harmony. Employee sources of support should do much to help produce the best result.

The places visited by one or more members of the Task Force in making this study were: New York City, Boston, Montreal, Ottawa, Champlain, Buffalo-Niagara Falls, Toronto, Chicago, Pembina, Pine Creek, Roseau, Warroad, Baudette, International Falls, Detroit, Seattle, Vancouver, Victoria, San Francisco, Honolulu, Los Angeles, San Diego-San Ysidro, Tucson, Nogales, El Paso, Houston, Brownsville, New Orleans, Bermuda, Nassau, Puerto Rico, Miami, Paris, Cherbourg, Southampton, and London. We believe this sample was representative of the sea, air and land frontiers, as well as of foreign customs and U. S. flight pre-clearance operations in foreign countries.

The Customs Service indeed has a unique opportunity to serve the Nation and the free world in the months and years ahead. We know that it will respond to and meet this challenge. The four other Task Force members, Mr. Wilbur H. Ziehl, Dr. Ivan C. Belknap, Dr. Richard S. Rosenbloom, and Mr. Robert V. Breen, join with me in expressing our appreciation for the opportunity to participate in this challenging assignment.

We also wish to express our thanks through you to Mr. Edward J. McGlynn, who was assigned by the Commissioner of Customs to facilitate our Task Force efforts. He gave unstintingly of his time and counsel, which was of great help to us. As the occasion permits, will you also pass on to the Customs Service and to the many others who cooperated with us our best wishes and debt of gratitude for their courteous assistance.

Sincerely yours,

Joseph J. O'Connell Jr

Joseph J. O'Connell, Jr.
Task Force Chairman

UNITED STATES CUSTOMS SERVICE

INSPECTION OF PASSENGERS AND THEIR BAGGAGE

A Study and Report by a Citizens' Task Force,
Appointed by the Secretary of the Treasury, to
Study Customs Inspection of Passengers' Baggage
at Customs Ports of Entry

Study Conducted July - October, 1961.

Report Submitted - January, 1962.

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airport operators have mutual problems incapable of independent solution.

We also believe that more uniform use should be made of existing committees, councils, and associations in the field; that forums for coordinating and resolving mutual problems are a necessary part of, for example, planning and running a modern airport. We found several instances of nearly total lack of coordination and communication in the planning of new airports or in airport expansion. Because Customs and its space is an integral part of the completed facility, this can cause bizarre results, and results in ill-will and inconvenience to the traveling public.

Review of the appropriate role and uses of such coordinating mechanisms should be made by the new Deputy Commissioner. More frequent participation of Washington officials in field councils may also be advisable.

D. Joint Performances of Border Functions. We reviewed the history of the dual-inspection operations performed by Customs and Immigration officers. In general, the system appears to be working out well, where it is in use on the Canadian and Mexican borders. This does not mean, however, that the present system with its independent administrative and supervisory channels will necessarily meet the test of the longer-run future.

We are convinced from our field visits that the time has now arrived for further combination of the roles of U. S. border forces engaged in preliminary inspection work. The simplification or elimination of procedures which complicate operations should pave the way for additional joint performance duties.

There is a need for specialists, to be sure, in the separate fields of Customs, Immigration, Public Health, and Agriculture. But there are many border operations where the job could be combined. The job could be performed more effectively and manpower availability increased if the officers of the four services were authorized to perform the services of the sister agencies in the joint preliminary screening operations. The job might also be less boring to the uniformed personnel. It appears that all that would be required would be to give present employees the requisite training and the authority to perform these additional roles. This plus the will of the agencies to enter into a joint performance program and agreement to coordinated supervision of the officers of the several services.

As a matter of fact, at a number of ports Agriculture personnel were assisting on the line; at another port, Public Health personnel were assisting; at one port, the spirit was "its our job collectively" and all hands pitched in. However, at other ports one Service would sit on its hands while its overburdened sister Service was tying up traffic because it was shorthanded.

Lest it be said that the Public Health or Agriculture duties on preliminary inspection are too difficult for the Customs and Immigration officers to learn, or vice versa, we must state that we carefully considered this. The facts, we believe speak for themselves and are to the contrary.

CHAPTER III

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

In the preceding Chapters, the Task Force has attempted to identify strengths and weaknesses of the U. S. Customs Service. We have also stated some of our conclusions and made recommendations to effect needed improvements. A summary of the principal conclusions and recommendations are listed below. In general, they are arranged in the order in which they occur in the report.

Introduction

Conclusion: The importance of foreign public opinion has increased greatly since the end of World War II and a program to encourage foreign travel to and within the United States is now a part of our national policy.

Inspection Objectives and Practices

Conclusion: The philosophies and operational methods of the U. S. Customs Service with respect to the inspection of a passenger and his baggage must keep abreast of and be attuned to national policy changes. This does not mean less emphasis on Customs traditional enforcement activities, but rather that new approaches must be found to permit continued and improved effectiveness.

Conclusion: The responsibilities of the U. S. Customs Service are not well understood nor sympathetically supported by the traveling public, although the authority for the performance of these duties is well established.

Recommendation No. 22 - That the "to follow" privilege be eliminated.

Conclusion: Applying the many separate and complex rates of the Tariff Act to passengers' baggage is very time consuming, requires training and experience of a high technical order, is not warranted, and cannot be calculated by the average traveler.

Recommendation No. 23 - That legislation be obtained authorizing a flat rate of duty for items imported in passengers' baggage.

Conclusion: Improvement of baggage inspection procedures, to permit better enforcement with increased speed and better passenger relations, will be difficult unless the present groundrule of opening every bag and giving it an identical inspection is altered. The problem of agricultural pests is largely responsible for present adherence to this policy. The policy is not, however, being carried out 100%, nor is the present system a sufficient deterrent to willful or negligent importation of agricultural pests.

Recommendation No. 24 - That legislation be obtained authorizing a $200 exemption for returning residents, in lieu of the present $100 exemption, which would be reasonable if enacted in combination with the change to "price paid" valuation at a "flat rate" of duty and the elimination of the articles "to follow" privilege, which are proposed in Recommendations 21, 22, and 23 above.

Recommendation No. 25 - That legislation be obtained to authorize the imposition of a summary penalty for the importation of prohibited (or controlled) fruit, flowers, plant material, or meat or meat products which are not declared orally or in writing.

Conclusion: Inspectors should be freed of miscellaneous duties and paperwork to the greatest extent possible so that they can concentrate on the examination of the passenger.

Recommendation No. 26 - That as changes in laws and policies are effected, procedures be reviewed and developed which will reduce the paperwork load on the inspectors to a minimum.

E. Organization and Working Relationships:

Conclusion: Based on the observations of the Task Force and the discussions and conclusions reached, organization changes will be necessary to bring about the needed improvements in the processing of passengers and their baggage.

Recommendation No. 27 - That a more positive and continuous role be exercised by the Bureau of Customs in Washington on passenger baggage operations through the appointment of a Deputy Commissioner for Travel Operations.

Recommendation No. 28 - That public information and education activities relating to travel operations be under the Deputy Commissioner for Travel Operations.

Recommendation No. 29 - That the new Deputy Commissioner be able to command necessary staff services relating to passenger baggage operations, such as those for personnel selection, training activities, procedures revision and development, technical advice, and field appraisals.

Recommendation No. 30 - That the new Deputy Commissioner identify field components complementary to Washington staff, which are needed to get the job done.

Recommendation No. 31 - That because there is a special need for coordinating mechanisms in baggage operations, both in Washington and in the field, the new Deputy Commissioner work out appropriate roles and uses for such coordinating mechanisms.

Conclusion: The time has now arrived for further combinations of the roles of U. S. border forces engaged in preliminary inspection work. The job could be performed more effectively and manpower availability increased if this action is taken.

Recommendation No. 32 - Officers of the four services -- Customs, Immigration, Public Health, and Agriculture -- should be authorized to perform the services of the sister agencies in joint preliminary screening operations. Coordinated supervision of the officers of the several services would, of course, also be required.

The individual conclusions and recommendations summarized above are, necessarily, only partially documented because of limitations of time and space. Moreover, the specific recommendations in themselves may be only one of several acceptable ways to improve Customs operations. It is rather the combination and interrelationship of all of the items and the context in which they are found that may prove to be of importance to

Customs, her sister border enforcement agencies, and the Nation in the 1960's. The philosophy we adopt and the service we perform; the image we project and the attitude of an educated public; the facilities we build and the way we organize to do the job: all of these will be affected by our concept of the problems, our willingness and ability to take a fresh forward look at them, and the diligence with which we take necessary actions.

We are certain that the United States Customs Service will meet the challenge.

[Staver Report, 1964]

An Evaluation of:

MISSION
ORGANIZATION
MANAGEMENT

DECEMBER 1964

Bureau of Customs
Treasury Department

ADVISORY COMMITTEE

BUREAU OF CUSTOMS

Philip Nichols, Chairman [1]	Commissioner of Customs
David B. Strubinger	Assistant Commissioner of Customs (Retired December 31, 1963)
Lester D. Johnson [2]	Assistant Commissioner of Customs

OFFICE OF THE SECRETARY

A. E. Weatherbee	Assistant Secretary for Administration
James P. Hendrick	Deputy Assistant Secretary
Edwin F. Rains	Assistant General Counsel

BUREAU OF THE BUDGET

William D. Carey	Executive Assistant Director

U. S. CIVIL SERVICE COMMISSION

Warren B. Irons	Executive Director

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Edward J. Widmayer	Senior Budget Examiner

BUREAU OF CUSTOMS

Theo B. Audett	Assistant Deputy Commissioner (Retired July 1, 1963)
Glenn R. Dickerson	Assistant Deputy Commissioner
Raymond N. Marra	Assistant Deputy Commissioner

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[1] Appointed to U.S. Customs Court effective October 1, 1964

[2] Designated Acting Commissioner effective October 1, 1964

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SUMMARY

In spite of the apparent contradiction in philosophy between maximum enforcement of all statutes and regulations regarding inspection of arriving passengers, baggage, and cargo, and the ideal of attaining minimum inconvenience for international travelers, Customs must arrive at some workable balance so as not to destroy the validity of either position. A recent study of passenger inspection activities, the O'Connell Citizens Task Force Report, addressed itself to the ways and means that Customs could use to resolve this apparent dilemma.

In general, the present study wholeheartedly endorses the findings of the O'Connell Report. Only where that report made recommendations with organizational implications which would be incompatible with the present recommendations on organization is there a difference.

Recommendations

IX-1. Abandon the present policy of 100 percent examination of passenger baggage and replace it with selective spot-check examinations. The goal to be sought is a generally accepted program of voluntary compliance by the traveling public, supported by an effective enforcement program to discourage would-be smugglers and to apprehend actual violators.

IX-2. Increase efforts to establish unified direction for primary screening at border ports where multiple screening is carried out.

IX-3. Develop more adequate standards for staffing inspection activities.

IX-4. Encourage the establishment of landing facilities for private aircraft adjacent to border ports of entry.

IX-5. A thorough study should be made to determine Customs' proper role in the control of merchandise. The basic determination to be made is whether Customs should attempt to exercise complete physical control over merchandise or should exercise primarily documentary control.

IX-6. The overall problem of expediting clearance of cargo merits thorough joint study by Customs and the transportation industries; Customs should give increased impetus to such studies.

IX-7. When at all possible in overtime inspection situations, a single Customs official should be authorized to perform all Customs functions.

Results

Adoption of the recommendation that selective spot inspection of passenger baggage be substituted for the present 100 percent inspection would permit Customs to utilize the staff assigned to this function much more effectively than is now the case. Coupled with better recruitment and training of personnel, this new approach to inspection should allow Customs to arrive at a workable balance between effective enforcement and expeditious clearance of passengers, baggage, and cargo. The development and application of more adequate staffing standards would permit better manpower utilization than is now possible.

Construction of landing strips adjacent to Customs border ports of entry would alleviate many problems pilots of private aircraft now have in meeting entrance requirements. Assigning only a single Customs officer to transact necessary business in overtime situations should reduce complaints from importers and brokers who must pay overtime charges.

Better, faster, and more effective procedures for controlling and clearing cargo would significantly benefit both Customs and the industries involved.

Specifically, this Survey Group recognizes the pressing need for more thorough training of inspectors, the need for increased public education toward the goal of understanding Customs missions, and the need for better Customs facilities at ports of arrival. While some recommendations of the O'Connell Report have been rejected, are no longer appropriate, or differ in detail with the present report (for example, certain organizational recommendations), the basic philosophy of the O'Connell Report is valid.

C. Customs Inspection Relations with the Public

The O'Connell Task Force Report suggested the establishment at Bureau headquarters level of a deputy commissioner position to deal with inspection activities. The problems which underlay this recommendation still exist, and answers to them must be found. The solutions are in part organizational and will follow from the recommendations made in Section IV of this report. If the proposed organization is adopted, the current lack of top level supervision and guidance for inspectional operation will be eliminated. Currently, there is no headquarters counterpart of the outside division in the field service--an activity which encompasses some 30 percent of Customs total personnel. As discussed in the section of this report on personnnel, there are no inspection positions assigned to Bureau headquarters. This lack of functional supervision of a major field operation is basic. Such supervision, and the policy direction and control flowing from it, are essential before reforms can be obtained.

After this basic weakness has been overcome, Customs can then work more effectively toward the establishment and maintenance of a careful and thorough training program for customs inspectors. Inspectors have perhaps the most sensitive public relations job in Customs; and yet, in the past, they have received only minimal training in comparison with that given examiners and agents. Efforts to overcome this deficiency are discussed in Section V of this report. Increasing emphasis on training should occur in several areas. Inspectors should be provided with a detailed manual of operations which would not only serve as an initial training aid, but would also furnish an operational guide once the inspector is actually on the job. It is understood that such a manual is presently being developed. Further attention should be given to encouraging and developing foreign language proficiency among inspectors. As the O'Connell Report demonstrated, there is a real need for bilingual, and even multilingual inspectors.

In the past it has generally been the policy to emphasize the desirability of maintaining formal, impersonal relationships between inspectors and the passengers whose baggage is being examined. The philosophy behind this policy is one of a desire to maintain a business-like efficiency while at the same time remaining impersonal and courteous. The basis for this philosophy is questionable in view of the officially declared United States policy to encourage foreign travel to this country. Consideration should be given to reversing this philosophy completely so that inspectors would be encouraged to treat passengers in a warm, friendly manner at the time of baggage examination. This attitude, if carried out after training, should help to create a favorable impression on the traveling public. This manner of dealing with passengers is also compatible with the O'Connell suggestion that inspectors concern themselves more with the passenger himself and less with the physical examination of his baggage. This approach is much more in harmony with the approach taken in Canada and Western Europe and is consistent with the suggestion discussed below for abandonment of 100 percent baggage examination. Recent use of oral declarations has increased passenger-inspector discussion and seems to have improved enforcement.

The physical facilities in many pier areas continue to leave much to be desired from the standpoint of appearance, safety, and physical comfort. While it can be argued that the physical setup at pier areas is not under Customs' sole control, nevertheless the traveling public frequently holds Customs responsible for inadequate and substandard inspection facilities. Customs should continue to encourage local port authorities and other interested groups to modernize physical facilities. While recent improvements have been realized, many facilities are still substandard.

Finally, long-range planning attention must be directed toward the problems of passenger inspection. The Bureau of Customs should give additional planning attention to be prepared for increasing workloads along new super highways, at new international bridges, at growing seaports, and at new or expanded international airports. While it is difficult to anticipate specific fluctuations in volume of workload, these can be predicted in a more systematic manner than they have been in the past. Functional supervision at headquarters and regional levels should help alleviate these problems.

D. Relations with Other Federal Agencies Involved in Border Inspection Activities

Currently the Department of Agriculture requires 100 percent examination of passengers' baggage in an effort to prevent the introduction of harmful agriculture pests into this country. Since Customs has insufficient manpower to provide this level of inspection and does not consider 100 percent examination necessary solely for Customs enforcement purposes, the Department of Agriculture reimburses Customs for enough manpower to make 100 percent examination theoretically possible. As was pointed out in the O'Connell Report, 100 percent examination does not, in fact, exist. One hundred percent examination at many border crossings is a practical impossibility, and exceptions at seaports and airports are necessary during peak arrival periods. The effect of this 100 percent policy is to prevent a more selective--and potentially more productive--intensive spot-checking of passenger baggage. In order to find a more realistic approach to the problem of examining every piece of baggage for 164 million arriving passengers, it will be necessary to make detailed studies of resources input compared to accomplishment. For example, concentrating Customs inspection effort on certain types or groups of passengers that past experience has indicated may have a propensity to smuggle should produce a payoff proportional to the concentration of effort. If this hypothesis is true, it should be possible to substantiate it in actual tests.

There appears to be room for further cooperation and increased consolidation of effort among the Federal agencies now exercising control over persons and goods arriving from abroad. For example, Customs officials in several border ports report that multiple screening of arriving passengers is not working as effectively as had been anticipated. This appears to be at least partially due to the fact that officers of each agency have not as yet been thoroughly trained in the responsibilities of their sister border agencies. Additional difficulties stem from the fact that the agencies participating in multiple screening continue to retain separate supervisory personnel at many border ports. The adoption and execution of recommendations recently made by multi-agency study teams of operations along both the Mexican and Canadian borders should do much to solve these problems.

E. Administrative Problems in Inspection of Passengers and Baggage

There are several other problems in the inspection area which merit attention by Bureau headquarters.

1. Procedures should be devised to permit representatives of carriers to act for passengers in obtaining release of personal effects which do not accompany the passenger (this is discussed in detail in Entry, Section VI).

2. Based on observations made during this survey, inspection staffing standards in several locations can be improved to minimize difficulties of handling peaks and valleys in passenger and baggage clearance which now pose problems at several seaports, border ports, and airports.

3. The problem of inspectors' overtime pay (as discussed in detail in Section V) creates problems among other Customs employees.

4. In addition there are other sources of difficulty between inspectors and customs port investigators at several ports. This problem stems from the fact that inspectors frequently feel that customs ports investigators are there to check on them; i.e., the inspector feels that once he has processed and cleared an arriving passenger that passenger has been thoroughly and adequately examined for Customs purposes. When such a passenger is subsequently stopped and subjected to questioning or personal search by a customs port investigator , the inspector feels that, at the very least, his judgment is being questioned. On the other hand,

customs port investigators often feel that inspectors are interested only in moving passengers through, and are not really thorough in their efforts to examine baggage to prevent intentional smuggling. In some ports friction has become sufficiently strong to destroy cooperation between the two groups. Where customs port investigators and inspectors are not on cordial terms, exchange of information is significantly hampered. The organizational recommendations proposed in Section IV of this report coupled with proper training of both groups, should go a long way toward minimizing this problem.

5. To date, the Bureau has not established meaningful staffing standards for measuring workload and performance in order to properly allocate manpower to inspection functions. There is currently a study underway to devise realistic work measurement standards for application to the inspection of baggage. The Bureau should continue to give support to this effort.

6. It has been brought to the attention of the Survey Group at numerous locations in the field, as well as in meetings with such groups as the Aircraft Owners and Pilots Association (AOPA), that private individuals feel that overtime charges paid to inspectors to clear private aircraft are often excessive. There appears to be a genuine problem in this area for pilots of small private aircraft entering from both Mexico and Canada. Past efforts to obtain administrative or legislative relief have been unsuccessful. In order to alleviate this problem, the AOPA has recommended that the Bureau of Customs initiate discussions with the Federal Aviation Agency and the Immigration and Naturalization Service to encourage establishment of (in conjunction with state and local authorities) landing facilities adjacent to border ports of entry. If such landing facilities were created and manned at fixed and publicized times, arriving aircraft could fulfill arrival requirements without being charged inspectional overtime. This would bring private aircraft under controls similar to those applied to automobiles and commercial aircraft, and would eliminate the lack of uniformity which now exists. As private aircraft traffic grows, consideration should also be given to staffing airports to eliminate overtime charges when volume involved is heavy. The entire overtime problem is discussed in detail in Section V.

F. Cargo

Historically, Customs has exercised considerable actual physical control over merchandise to be entered into the commerce of this country. Increasingly in recent years, however, the lack of available manpower, coupled with the enormous increase in the number of imports, has necessarily severely curtailed such actual physical control. The time has come to reevaluate Customs' role in this matter. Customs is faced with the alternatives of either exercising meaningful physical control over arriving merchandise (which would necessitate increased staffing) or having inspectors maintain only documentary control of the merchandise. If some middle ground is thought desirable, the necessary policies should be carefully developed, and complete and practical operational guidelines should be issued throughout the Service.

The following observations on cargo control were noted from interviews with Customs field officials:

1. Several Customs officials, particularly those who are enforcement officers, think that physical control of merchandise has been reduced below an acceptable minimum for protecting revenue and for preventing smuggling.

2. Collectors' personnel in at least four ports reported a need for more supervision by inspectors of the lading and unlading of vessels in foreign trade.

3. At least two ports reported that steamship companies are not furnishing accurate records of imported merchandise. Officials in these ports believed that accurate records should be required by law if controls are to be documentary.

4. Appraisers' personnel in several ports reported dissatisfaction with the way inspectors controlled incoming cargo at dock areas. Such lack of control posed problems for samplers and examiners making dock examinations.

The whole area of control of commercial cargo needs increased headquarters attention and study. Modern methods of cargo movement necessitate modern administrative responses. For example, containerized cargo, air freight, and increasing commercial automation present challenges totally different in kind and quality from those in past decades. Many suggestions for modern procedures, including the utilization of ADP equipment, have been presented. For example, the Air Transportation Association has recommended a procedure for complete automation of Customs air cargo activities.

Transportation companies complain that Customs does not schedule work hours to minimize overtime to carriers. They believe that Customs should provide staffing outside of regular 8:00 a.m. to 5:00 p.m. hours if there is a pattern of activity during such hours, even though such business does not constitute a regular recurring activity for which Customs staffs under its present regulations. They also complain about the fact that many Customs transactions require the presence of more than one Customs employee on an overtime basis. As a specific example, an importer along the Candian border routinely receives a truckload of Canadian meat every Tuesday night. As it stands now, a truck arrives after the ordinary working day and is met and inspected by a Department of Agriculture inspector, a customs inspector, and a customs examiner. It is difficult to explain to the trucker and his client why it is necessary to have officials from two Federal agencies pass on his shipment, and it is even more difficult to explain why one agency must have two different employees present (at overtime rates) to clear his truck.

Recommendations

IX-1. Abandon the present policy of 100 percent examination of passenger baggage and replace it with selective spot-check examinations. The goal to be sought is a generally accepted program of voluntary compliance by the traveling public, supported by an effective enforcement program to discourage would-be smugglers and to apprehend actual violators.

IX-2. Increase efforts to establish unified direction for primary screening at border ports where multiple screening is carried out.

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IX-5. A thorough study should be made to determine Customs' proper role in the control of merchandise. The basic determination to be made is whether Customs should attempt to exercise complete physical control over merchandise or should exercise primarily documentary control.

IX-6. The overall problem of expediting clearance of cargo merits thorough joint study by Customs and the transportation industries; Customs should give increased impetus to such studies.

IX-7. When at all possible in overtime inspection situations, a single Customs official should be authorized to perform all Customs functions.

O'CONNELL TASK FORCE REPORT: CONCLUSIONS AND RECOMMENDATIONS

Inspection Objectives and Practices

Conclusion: The philosophies and operational methods of the United States Customs Service with respect to the inspection of a passenger and his baggage must keep abreast of and be attuned to national policy changes. This does not mean less emphasis on Customs traditional enforcement activities, but rather that new approaches must be found to permit continued and improved effectiveness.

Conclusion: The responsibilities of the United States Customs Service are not well understood nor sympathetically supported by the traveling public, although the authority for the performance of these duties is well established.

Conclusion: Significant improvements in baggage inspection practices have been made by Customs and a generally effective job has been done. But the changing role of the Customs Service will require new responses.

Conclusion: The volume of traffic across our borders has reached staggering proportions and will continue to rise: 159 million persons arrived in fiscal year 1961. The patterns of travel are also changing with significant volume of arrivals by fast transportation which has resulted in the demand for faster entry into the United States.

Present Problems and Opportunities

Conclusion: At this time in our Nation's history it is necessary for border inspectional agencies to help create goodwill for the United States. We believe that much can be done to create an improved National and Customs image while achieving equal or stronger enforcement.

Conclusion: Two basic groundrules of United States Customs must be changed if Customs and the image of Customs is to be improved. They are: (1) our examination of baggage, as distinguished from the passenger; (2) our insistence "for agricultural reasons" on opening every bag and container whenever feasible.

A. Public Information and Education:

Conclusion: Having travelers better informed on the laws and procedures of United States Customs will make for speedier, more efficient Customs clearance operations. Greater respect for the Customs Service and cooperation will also result.

Recommendation No. 27 - That a more positive and continuous role be exercised by the Bureau of Customs in Washington on passenger baggage operations through the appointment of a Deputy Commissioner for Travel Operations.

Recommendation No. 28 - That public information and education activities relating to travel operations be under the Deputy Commissioner for Travel Operations.

Recommendation No. 29 - That the new Deputy Commissioner be able to command necessary staff services relating to passenger baggage operations, such as those for personnel selection, training activities, procedures revision and development, technical advice, and field appraisals.

Recommendation No. 30 - That the new Deputy Commissioner identify field components complementary to Washington staff, which are needed to get the job done.

Recommendation No. 31 - That because there is a special need for coordinating mechanisms in baggage operations, both in Washington and in the field, the new Deputy Commissioner work out appropriate roles and uses for such coordinating mechanisms.

Conclusion: The time has now arrived for further combinations of the roles of United States border forces engaged in preliminary inspection work. The job could be performed more effectively and manpower availability increased if this action is taken.

Recommendation No. 32 - Officers of the four services--Customs, Immigration, Public Health, and Agriculture--should be authorized to perform the services of the sister agencies in joint preliminary screening operations. Coordinated supervision of the officers of the several services would, of course, also be required.

XI. RELATIONS WITH OTHER AGENCIES

Introduction

This section analyzes the working relationships which Customs has with Federal and state agencies for which it performs functions and recommends actions to improve these relationships and the pertinent Customs operations.

A. Background

The Customs Service performs certain functions for, or works in close cooperation with, a large number of other Federal, state, and local agencies. This responsibility falls to Customs because it is a major enforcement arm of the United States on all the international borders and at seaports, and because it is the only Federal agency with broad regulatory powers affecting all persons, merchandise, and carriers in international trade and traffic.

There is attached, appendix A XI-1 - 10, a listing of the various statutes which Customs enforces for, or in conjunction with, other Federal agencies. This list includes more than 100 statutes and still is not all inclusive since the functions are so extensive and in many cases so allied with other Customs functions that it is not practicable to identify or segregate them for this report.

Customs manpower devoted to performance of functions not directly related to Customs statutes and functions is sizable. Two agencies reimburse Customs for the work it performs for them. These are:

	Funds Fiscal Year 1964	Man-Years Employment
Department of Agriculture	$1,661,000	228
Commerce Department (Export Control)	$1,450,000	218

The funds from the Department of Agriculture are provided to permit Customs to conduct a more intensive baggage inspection for plant quarantine purposes. The funds from the Department of Commerce are to enforce laws governing merchandise exported from the United States.

In addition to the above, it has been estimated that approximately 155 man-years of Customs employment are devoted to verification of import statistical data compiled for the Bureau of Census. Customs is not reimbursed for this service.

It is not feasible to identify in all cases Customs manpower devoted to performance of functions for other agencies. However, it is estimated that probably 10 percent or more of the total Customs employment of approximately 8,900 man-years is devoted to such functions. Many functions consume relatively little additional time or are related to regular Customs activities and require only 1 or 2 man-years to carry out. However, the number of the miscellaneous functions is so great that in the aggregate they require large amounts of Customs manpower.

B. Types of Interagency Relationships

The number of various functions which Customs performs for other agencies leads to a variety of interagency relationships. These vary from substantive programs in which Customs is assigned primary enforcement responsibility to minor working relationships in which Customs may simply furnish information to another agency. The working relationships can be broadly categorized as:

1. Performance of substantive work programs for other agencies. Examples of these are:

a. Enforcement of export control requirements for the Department of Commerce;

b. Enforcement of Foreign Asset Control restrictions for the FAC branch of the Treasury Department; and,

c. Control of imports and exports of arms and implements of war for the State Department.

2. Regulation and control of import or export of various articles under the jurisdiction of other agencies. Examples are:

a. Collection of taxes on, and regulation of, importations of alcoholic beverages and other items for the Internal Revenue Service;

b. Control of the importation and exportation of fissionable materials for the Atomic Energy Commission; and,

c. Control of gold importations and exportations for the Office of Domestic Gold and Silver Operations, Treasury Department.

3. Mutual cooperation with other agencies. Examples are:

a. Dual and multiple screening programs on the Canadian and Mexican borders where primary screening is performed for all services by representatives of Customs, Immigration and Naturalization Service, Public Health Service, or Agriculture Inspection Service; and,

b. Dual inspection programs with the Immigration and Naturalization Service at preclearance points and at small ports where representatives of one agency perform all functions for both services.

4. Programs where responsibilities are shared with other agencies. Examples are:

a. Suppression of traffic in illegal narcotics in conjunction with the Bureau of Narcotics; and ,

b. Enforcement of munitions controls, pier pilferages, etc., in conjunction with the FBI.

5. Enforcement of regulations affecting articles in international trade where parallel regulations control domestic articles. Examples are:

a. Copyright, trademark, and patent restrictions regulated domestically by the Patent Office or the Copyright Office; and,

b. Special marking provisions for such merchandise as wool, fur, and textile products controlled domestically by the Federal Trade Commission.

6. Coordination of policies of other agencies such as the United States Travel Service whose program is designed to encourage visitors to the United States.

7. Technical assistance to agencies such as the Tariff Commission or State Department in the development of trade or tariff policies.

C. Agencies Having Functions or Missions Similar to the Bureau of Customs.

Several agencies have responsibilities or perform border regulatory functions similar to the Bureau of Customs; close cooperation between their operations and Customs operations is required. Among these are:

1. Other Inspection Agencies. The Public Health Service of the Department of Health, Education, and Welfare inspects arriving persons, animals, and certain articles to prevent the introduction of dangerous products or communicable diseases into the United States.

The Immigration and Naturalization Service of the Department of Justice inspects arriving persons to determine if they are authorized to enter the United States.

The Agriculture Department conducts inspection of certain arriving articles, primarily plant or plant products or meats, to prevent entry into the United States of plant or animal diseases or pests.

Working arrangements have been made among the various agencies to avoid duplication of inspection in some cases. For example, on the Mexican border a primary inspection of arriving persons is made by a single officer of any one agency to determine if requirements of all agencies are met. If requirements of all agencies are not met, or if the determination is doubtful, the person is referred to the specific agency involved for further processing. At some preclearance locations and at small border crossings, a single officer of one agency completes processing of arriving persons for all agencies.

2. Other Enforcement Agencies

a. Bureau of Narcotics. The Bureau of Narcotics, Treasury Department, is generally responsible for the regulation and control of the use of legal narcotics and for the suppression of illegal traffic in narcotics. The Bureau of Customs is responsible for preventing illegal importation of narcotics. Close cooperation between these two agencies is necessary if satisfactory control of narcotic activity is to be achieved.

b. Federal Bureau of Investigation. Certain Customs enforcement activities closely parallel, or are related to, FBI responsibilities (e.g., pilferages from interstate cargo, interstate movement of obscene materials, and munitions control), and responsibilities of each agency must be closely defined to avoid overlapping activities.

3. Other Agencies

a. Alcohol and Tobacco Tax. During the course of this survey, information was gathered on the mission, organization, and operations of Customs administrations in seven major foreign countries. To a large extent functions of these Customs services parallel those of the United States Customs Service. One significant difference between the United States Bureau of Customs and most foreign Customs services exists; in six of the seven countries studied the Customs Services have responsibility for the collection of excise taxes, including excise taxes on articles domestically manufactured. (See appendix A IV-13.)

In the United States, Customs collects duties and internal revenue taxes on imported alcoholic beverages and articles containing alcohol and duties on imported tobaccos, while the tax on such domestically produced articles is collected by the Alcohol and Tobacco Tax Division of the Internal Revenue Service.

Operations of the Alcohol and Tobacco Tax Division of the Internal Revenue Service parallel Customs operations to a significant degree. Both deal with the collection of moneys on articles, both require regulatory actions and close supervision or control of articles, and both require extensive enforcement work to suppress illegal activity. On the other hand, operations of the Alcohol and Tobacco Division appear to differ materially from most other Internal Revenue Service operations.

No attempt has been made to specifically compare the operations of the tax agencies. In our analysis of Customs operations we have pointed out possible savings and improvements to be gained by a joint study aimed toward consolidating Customs and Alcohol and Tobacco Tax laboratories (see Section VI). Similar savings and improvements, and in some cases elimination of duplicate efforts, might be possible by extending the joint study to determine the feasibility and economies of consolidating all tax collecting, enforcement, accounting, control, and supervisory activities now conducted by both the Bureau of Customs and the Alcohol and Tobacco Tax Division of the Internal Revenue Service.

b. Coast Guard. By legal definition (19 U.S.C.A. 1401) Coast Guard officers are vested with full authority to act as Customs officers. In actual fact, however, they seldom have occasion to exercise this authority. Coast Guard personnel work closely with Customs in carrying out port security responsibilities. Coast Guard personnel report to Customs irregularities in documents of American-flag vessels discovered as a result of routine Coast Guard boarding and inspection of such vessels. When requested, the Coast Guard frequently assists Customs by supplying vessels, aircraft, and manpower for special enforcement situations. The Survey Group found cooperation to be excellent between these two agencies.

D. Problems of Maintaining Adequate Agency Cooperation

The variety of interagency and intradepartmental relationships creates numerous problems in maintaining liaison and in insuring cooperative efforts. Some of these are:

1. It is necessary to maintain continuous liaison with agencies such as Immigration and Naturalization where certain activities, such as the dual inspection program utilize personnel interchangeably.

2. With some agencies the primary problem is obtaining an expression of policy, level of achievement desired, or in working out operational procedures for accomplishing the function. One recurring complaint received by this Study Group from field officers was the lack of adequate instructions from some agencies as to what was expected of Customs and how it was to be done. Some agency regulations are contained in the Customs Regulations; others in the appendix to

the Customs Regulations; some are issued separately to Customs, while others have not issued special regulations or instructions except on an individual basis to specific Customs offices.

3. A third major problem is that of coordinating Customs policy with the policies of other agencies. For example, although a less intensive but more selective baggage examination would probably be adequate for Customs enforcement purposes, the policy of the Department of Agriculture requires a 100 percent baggage inspection.

4. A fourth major problem is to insure that policies adopted by other offices can be administered effectively by Customs. Sometimes, another office will decide a policy or request legislation without consulting Customs; later the policy is found to be not feasible. Examples are certain restrictive policies of theOffice of Foreign Assets Control and theOffice of Domestic Gold and Silver in the Treasury Department which give no discretion to Customs in enforcement and create many local administrative problems.

5. A fifth major problem is providing specific liaison assignments so that other agencies interested in Customs operations know with whom to deal. No single office in the Bureau headquarters now has responsibility for maintaining liaison with other agencies. Responsibility for maintaining liaison in some cases is poorly defined or divided among several organizational units.

An official of the Department of State spoke very strongly about the need for closer cooperation between Customs and State offices conducting international negotiations. He believes Customs should be included in many more international meetings to avoid agreement by State personnel with impractical policies. However, at present Customs has no one to deal exclusively with the State Department on international problems.

There is attached, appendix A XI-11, a listing of major problems which Customs field offices have identified in their relations with other agencies.

E. Conclusions

The Bureau of Customs performs functions for, or works closely with, numerous other Federal agencies with considerable expenditure of Customs manpower.

The performance of these miscellaneous functions for other agencies by Customs is probably the best means of carrying them out. Customs is in a logical position to enforce these requirements in the most efficient and effective manner. Customs can also undertake the functions without undue overhead expense which would be required if each agency were to undertake its own border enforcement. As mentioned in the description of the Customs mission in Section IV, the enforcement of these functions for other agencies is in itself a Customs mission--and an important mission which should not be subordinated to other activities. The truth of this is evident in that Customs often becomes the spokesman for policies of other agencies. At times, this involves receiving criticisms for unpopular policies or regulatory actions of other agencies.

The multitude of assignments to Customs causes major problems. These result from a need for better liaison with the other agencies to insure understanding of, and compliance with, their policies. Additionally, it is necessary to maintain a balance between Customs functions and functions of other agencies to insure that proper priority is given to all activities.

There is a need to establish in the Bureau headquarters specific responsibility for liaison with other agencies to insure that headquarters and field officers have proper direction and guidance, and that appropriate assistance is provided. The organizational changes previously recommended in this report will be helpful in conducting this liaison.

There is a need to critically analyze and question: (1) the propriety of the assignment to Customs of the multitude of other-agency assignments it now has or is asked to assume; (2) the policies of the agencies in relation to the basic Customs mission; and, (3) the balance between performance of work for other agencies as against performance of the basic Customs mission. Among the situations which should be analyzed are:

Bureau of the Census, Department of Commerce. As pointed out under Section VI, the assignment to appraisers of verifying and reporting import statistics has placed a burden on the appraiser's staff so that now examiners devote approximately 30 percent of their time to this function. This additional work has resulted in delays in completion of appraisement and the build-up of large backlogs in Customs work, which results in substantial inconvenience and potential financial loss to importers.

As specified by the Bureau of the Census, Customs is required to make a 100 percent verification of statistical factors and must submit reports to Census within prescribed time limits. The statistical breakdown is much more numerous than the regular tariff schedules. The inclusion of statistical data on Customs entry documents complicates these forms for Customs use. No spot-checking or sampling techniques are used except for items on informal entries (value less than $250).

As recommended in Section VI, it is believed this activity merits a joint study by Customs, Census, and the Bureau of the Budget to determine if statistical sampling methods can be used. Also, a determination should be made as to whether Census can assume responsibility for some of the verification program on a post-review basis and accomplish satisfactory results.

Plant and Animal Quarantine Branches, Department of Agriculture. As discussed in Section IX, Inspection, the Department of Agriculture has a policy requiring Customs to conduct a 100 percent inspection of arriving passengers' baggage. This policy precludes adoption or consideration by the Bureau of Customs of a more selective inspection which might facilitate passengers movement and result in a more productive Customs enforcement program. As recommended in Section IX, this policy should be abandoned.

Foreign Assets Control, Treasury Department. The Office of Foreign Assets Control provides regulations and instructions to Customs field offices on administration of the Foreign Assets Control program which prohibits or restricts importation of merchandise of possible Communist China or North Korean origin.

Seizure and control of such articles and penalties are assessed and administered by the Bureau of Customs. Very little discretion is given to local Customs offices under this program. For example, articles arriving in the mails of possible Communist origin without proper documentation must be detained until licenses are obtained (which are seldom issued). These detentions result in administrative difficulties which are a burden to Customs. A review of Customs-Foreign Assets Control policy relationships should be made with a view to giving local Customs offices more discretion in handling these cases.

Office of Domestic Gold and Silver Operations, Treasury Department. Recent changes in regulations of this office removed from local collectors any discretion in clearance of gold coins, or disposition of such coins after detention. This has resulted in some districts in numerous small seizures even involving articles of personal adornment. These may not be resolved locally but must be referred to the Office of Domestic Gold and Silver Operations with resultant administrative difficulties. A review of this policy would be desirable to determine if authority to handle some of these cases could be delegated to Customs.

Internal Revenue Service, Treasury Department. The character of the functions performed by the Alcohol and Tobacco Tax Division of the Internal Revenue Service and Customs functions are very similar and in some cases directly parallel; they merit a joint study to determine the feasibility of consolidation.

F. Recommendations

XI-1. Assign coordination of liaison with other agencies to the Commissioner's office. (This function should be assigned by the Commissioner to one of his staff assistants.)

XI-2a. Assign specific responsibility to appropriate Bureau headquarters offices for maintaining liaison with the agencies with which Customs deals. The establishment of an Operations Division in the headquarters office will do much to permit specific liaison responsibilities on operating matters.

b. Insure adequate interest and liaison on international matters.

XI-3. Initiate close liaison with other agencies to insure that Customs has adequate and clear expression of policy and procedural instructions for guidance of headquarters and field officers, and that appropriate assistance is provided.

XI-4. Critically analyze and question: (1) the propriety of the assignment to Customs of the many other-agency assignments it now has or is asked to assume; (2) the policies of these agencies and the feasibility of their enforcement; (3) the balance between performance of work for other agencies as against accomplishment of the basic Customs mission; and, (4) whether other agencies are satisfied with the job Customs is doing.

XI-5. Establish procedures to insure that all instructions to field offices are issued by the Bureau headquarters, or if issued by the agency concerned are received and approved by the Bureau headquarters. (See Section XII - Public Information and Communications.)

XI-6. Initiate a joint study to determine feasibility and possible advantages to be gained from consolidation of functions of the Alcohol and Tobacco Tax Division of the Internal Revenue Service and the Bureau of Customs.

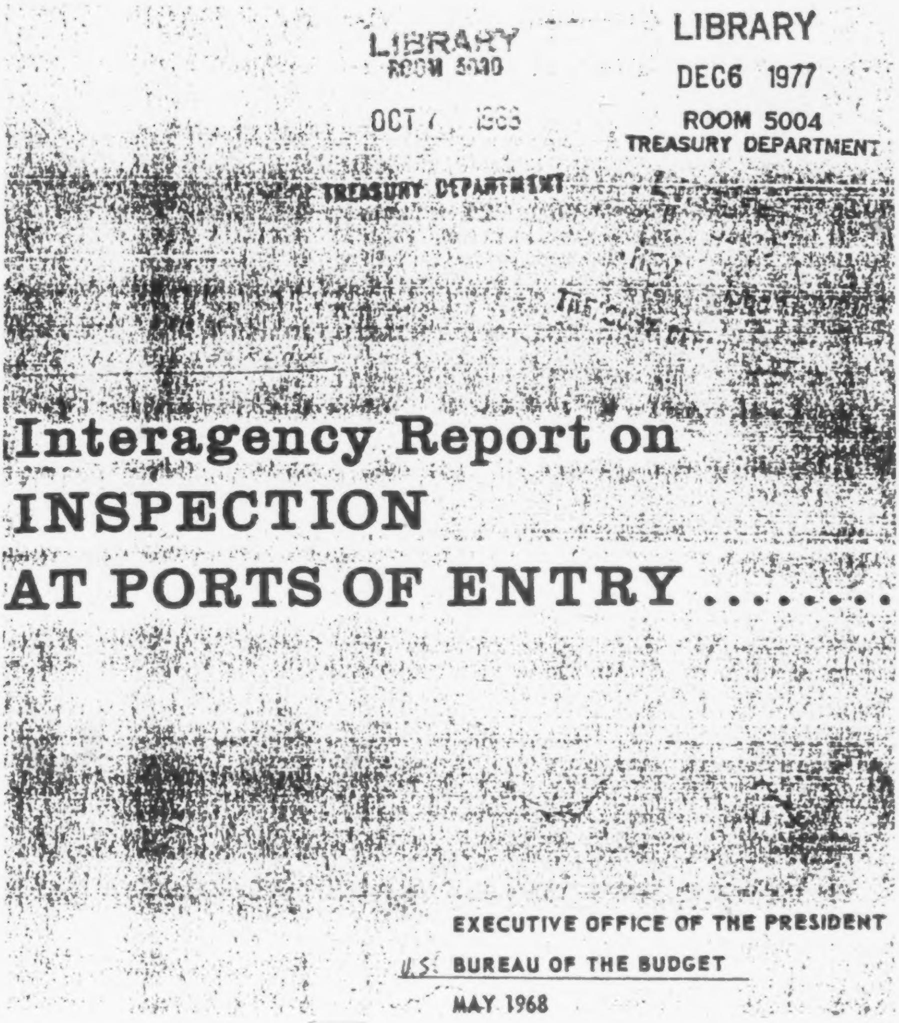
XI-7. Review policy relationships between Customs and the Treasury Offices of Foreign Assets Control and Domestic Gold and Silver Operations with a view to delegation of more authority for handling cases to Customs.

G. Results

The adoption of the recommendations in this section will result in improved liaison and closer cooperation between Customs and the agencies with which Customs deals and provide better guidance to field offices for performance of field operations.

The proposed joint study of the feasibility of consolidating Alcohol and Tobacco Tax and Customs operations might result in improved operations and financial savings.

The delegation of more authority to Customs for handling Foreign Assets Control and Domestic Gold and Silver cases would facilitate disposition of this work and improve public relations.



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Interagency Report on INSPECTION AT PORTS OF ENTRY ....

EXECUTIVE OFFICE OF THE PRESIDENT
U.S. BUREAU OF THE BUDGET
MAY 1968

d. Carriers should furnish information on passengers in advance of arrival and provide additional representatives to assist passengers through the port of entry.

Airline Scheduling

a. Carriers, Federal agencies and terminal operators should examine peak period scheduling of aircraft arrivals with particular reference to impact of traffic in 1970's.

Interagency Cooperation

a. Passengers and crew on cargo vessels with up to 12 passengers should be inspected by a minimum number of cross designated inspectors designated to act for all four agencies.

b. Yachts should be inspected by one inspector acting for all four agencies.

c. Immigration inspectors now performing enroute inspection should perform a primary inspection for Public Health.

d. Inspection agencies should extend the multiagency staffing concept used for primary inspection at land borders to the primary inspection phase of the one-stop system at airports and seaports.

e. Inspection agencies should cooperate further in training, management information, and public information efforts.

f. As an interim action pending completion of the testing of one-stop inspection, Immigration and Public Health should combine their inspections at all airports and seaports where feasible.

Physical Facilities and Support Services

a. Pier facilities for inspection of vessel passengers and their baggage should be greatly improved.

b. Much greater use should be made of multilingual signs at land, sea, and air ports of entry.

c. Baggage handling facilities and assistance at seaports and airports should be improved.

d. An accelerated program for updating border facilities should be developed and funded.

Individual Agency Actions

a. Immigration should consult with the Federal agencies involved to assess the effectiveness of the look-out book requirement with a view toward reducing the present number of names.

b. Customs should facilitate pre-baggage inspection payment of duty and continue efforts to obtain flat rate duty legislation.

c. Public Health should extend use of radio pratique to cargo vessels.

d. Agriculture should develop selective techniques for lunch box and grocery inspection on Mexican border.

Program Coordination and Direction

a. Administrative "managers" for multiagency activities should be established on the Mexican border on a shift or work area basis. ✓

b. Uniform hours of service for adjacent ports on each side of the border should be established everywhere possible.

Single Agency

a. At an appropriate future time, consider assigning complete responsibility for inspection of passengers and their baggage to one of the four inspection agencies. ✓

Acknowledgements

Due to the wide national interest in port-of-entry activities, other study groups were giving concurrent attention to some of the same functions under study by this Task Force. Liaison was established with these groups from the very beginning to avoid duplication and develop profitable working arrangements to meet the special interests of all. These other groups included the Government-Industry Commission on Travel, the Mexico-United States Commission on Border Development and Friendship, and the Transportation Facilitation

The increasing traffic emphasizes the need for multilingual airline personnel to assist passengers in preparing documents for inspection and to guide the passengers through the inspection process. The responsibility to provide this service is recognized by the carriers but frequent failure to meet this responsibility satisfactorily has been noted.

Recommendation

No. 6 Carriers should provide additional multilingual representatives to assist passengers through the Federal inspection process.

The baggage claim areas are congested, usually of the self-service type and are confusing to the infrequent traveler. They also impose hardships on the elderly who are not capable of coping with the constantly moving baggage delivery equipment. At larger facilities, baggage handling assistance at the claim areas is inadequate. Passenger traffic control in the baggage area is essential for full utilization of the inspection personnel.

Recommendation

No. 7 Terminal operators or carriers should provide additional baggage handling service, particularly from the terminal baggage delivery point to the point of inspection.

INTERAGENCY COOPERATION

The Federal inspection agencies in the past have individually provided the carriers, terminal operators, and others with information brochures on entry requirements. In some instances, separate information programs have been initiated without touching base with sister agencies. Public information programs in risk areas both at home and abroad on entry requirements could be intensified through travel and carrier ticket agents and the State Department network of passport offices, consular offices trade and industrial journals, and information media that will reach travel clubs, etc. The information should specify and stress liquor allowances, vaccination requirements, and general prohibitions on agricultural products.

Recommendation

No. 8 Inspectional agencies should develop multiagency handout information for use by carriers, terminal operators and others on entry requirements.

The introduction of the one-stop inspection system will require cross designation and training of personnel of the four inspection agencies.

Recommendation

No. 9 The inspectional agencies should establish staff capability within the total inspection work force for all of the primary-type inspection functions through cross designation and formalized training.

Interagency management information to update risk criteria and evaluate training will be required in order to measure the effectiveness of the one-stop inspection system.

Recommendation

No. 10 The inspectional agencies should cooperate in the development of an interagency management information system to regularly evaluate the effectiveness of the inspection process.

The practice of requiring that all dutiable declarations be processed at the Customs baggage belts adds to the congestion at busy airports.

Recommendation

No. 11 The Bureau of Customs should (a) facilitate the revenue collecti process by installing voluntary compliance booths adjacent to the primary inspection area and for passenger use while awaiting baggage claim at large airports, and (b) expand the use of cashiers for duty collections.

The classification of dutiable articles under the hundreds of rates provided in current tariff schedules is time consuming. Customs has proposed legislation for a flat rate of duty on passenger baggage.

Recommendation

No. 12 Bureau of Customs should continue efforts to obtain flat-rate duty legislation.

AIRPORT FACILITIES

"Nothing is as constant as change" has been a fact of life for most large international airport terminals in the United States. Almost all are either undergoing expansion modifications or are being rebuilt. While some are primarily concerned with today's aircraft standards of previous systems. High density inspections and "blitzes" are utilized periodically as enforcement techniques but have not been fully satisfactory for monitoring the effectiveness of the primary inspection.

Recommendation

No. 36 The inspectional agencies should develop an Interagency Management Information System to provide criteria for designing inspectional procedures and for evaluating the inspectional programs.

TRAINING

The training needs of border personnel include cross-training in basic requirements to comply with the regulations administered by the four agencies, plus Spanish speaking capability, since many border residents do not speak English. All of the agencies have provided some cross-training for their employees using national academies or on-the-job training or both.

After five years of interagency operation, the problems of interagency training to perform cross-designated functions have not been resolved. Funds have been curtailed for training that involves travel and subsistence. Personnel shortages in most agencies place extreme limitations on the capability to provide off-the-job training on Government time. Heavy traffic limits the amount of classroom time on the job. Agencies have failed to provide adequate guidance in those functions (duties and responsibilities) for each agency for which training is conducted.

Some of the inspectional personnel have limited knowledge of Spanish and find it difficult to converse with travelers who do not speak English.

Recommendation

No. 37 The inspectional agencies should establish a nationally directed, cross-training program to provide: program information, inspectional techniques, a common language manual for cross-designated inspectors, regional or district monitoring and counseling, training checklists and local inspector-instructors.

FACILITIES

Considerable progress has been made in updating of Federal inspection buildings and surrounding facilities at border ports. New structures have recently been completed at El Paso, Texas; Nogales, Arizona, and a few other medium-sized ports. The major ports of Brownsville and Laredo, Texas, San Ysidro and Calexico, California, are inadequate for the present workload. The inspection agencies have requested GSA to provide new or additional facilities at these locations, but due to present budgetary limitations, GSA progress has been slow.

There is a general lack of multilingual signs directing traffic in and out of the inspection areas. Highway signs to the facilities are particularly scarce at the older ports. Spaces for extended parking, comfort stations and waiting lounges are inadequate except at the newer facilities.

It is ironic that border clearance inspectors enforce antipollutant requlations affecting imported vehicles, but perform these admission card with a minimum of additional inspection. If the present volume of names in the "look-out book" continues, a practical solution must be sought for electronic checking. Prepayment of duty at time of purchases overseas may become feasible. Voluntary payment of duty coupled with high penalties for nonpayment may prove by research to have potential. Alternative systems of preventing entry of prohibited agricultural products, insects, and animal diseases must be researched.

It must be conceded that passengers should be processed as comfortable and expeditiously as is reasonable. One cannot forget that man has historically measured his progress by the increased speed at which he travels and that any delays are annoying. However, the needs of all of our society must be met and those needs translated into laws demand an inspection of persons and their baggage.

SINGLE AGENCY

The managerial effectiveness of the inspection programs is hindered considerably by their dispersal among four bureaus of four separate departments. The implementation of recommendations of past study groups has been difficult because of the divided responsibility of the four programs.

A Task Force directed by the Bureau of the Budget in 1948 recognized the weakness of multiagency direction when it instituted preliminary screening with secondary backup inspections on the border. Their report stated "It will be admitted that the new procedure would undoubtedly operate more satisfactorily under a single administrator...achieving a unity of control or single administration of border inspectional personnel is the next step--but a step for the future."

The Citizen's Task Force Study and Report of January 1962 and the Evaluation of the Mission Organization and Management of Customs 1964, both reported that the present system of multiple screening with its independent supervisory channels does not satisfy the long-term needs of any of the inspectional agencies. The recommendations of the Joint Survey of Multiple Inspection of Mexican Border in 1964 did not result in the necessary management and supervisory controls.

It is the observation of this Task Force that the total inspection program is lacking direction, vitality, and responsiveness because of the divided responsibility among the four agencies. Cooperation is completely on a voluntary basis. Where cooperation is a necessity, such as staffing the primary inspection on vehicular lanes at land borders, agreements are reached which become rigid for many months or years without the flexibility to respond immediately to changing situations.

Planning is made ineffective because no single agency has broad enough jurisdiction to plan for most of the major changes that are needed. Changes are extremely difficult to effect because of the practical difficulties of obtaining unanimous agreement on what should be changed, by whom, when, and how much. A single and effective voice to represent the total inspection function with the public, the travel industry, and other groups is entirely lacking.

The management of multiagency functions is inadequately coordinated as evidenced by idle inspectors in one area while backlogs of travelers waited in another area a short distance away. Differences in agency policies and laws, even minor ones, irritate those employees treated less favorably.

Presently, each of the four inspectional agencies has responsibilities and functions other than the inspection activities studied by this Task Force. Personnel are rotated from these other duties into the inspectional pattern to provide for peak and valley staffing.

The assignment of responsibility for inspection of travelers to a separate agency not responsible for one or more of the other phases of border clearance would require major legislative and reorganizational changes. The expense of staffing for peak periods and support structure would be prohibitive.

Separation by tradition must eventually yield to unification for progress. The establishment of a single agency for all activities pertaining to the inspection of travelers and their baggage is viewed by the Task Force as very desirable in the long range, but not as an immediately attainable objective. First priority should be given to the significant program improvements recommended in the earlier chapters of the report.

Recommendation

No. 43 At an appropriate future time, consider the feasibility of assigning the complete responsibility for the inspection of passengers and baggage to one of the four agencies now performing those activities.

REORGANIZATION PLAN NO. 2 OF 1973

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 28, 1973, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

Transmitted March 28, 1973.
Effective July 1, 1973.
80 Stat. 393.

Law Enforcement in Illicit Drug Activities

SECTION 1. *Transfers to the Attorney General.* There are hereby transferred from the Secretary of the Treasury, the Department of the Treasury, and any other officer or any agency of the Department of the Treasury, to the Attorney General all intelligence, investigative, and law enforcement functions, vested by law in the Secretary, the Department, officers, or agencies which relate to the suppression of illicit traffic in narcotics, dangerous drugs, or marihuana, except that the Secretary shall retain, and continue to perform, those functions, to the extent that they relate to searches and seizures of illicit narcotics, dangerous drugs, or marihuana or to the apprehension or detention of persons in connection therewith, at regular inspection locations at ports of entry or anywhere along the land or water borders of the United States: *Provided,* that any illicit narcotics, dangerous drugs, marihuana, or related evidence seized, and any person apprehended or detained by the Secretary or any officer of the Department of the Treasury, pursuant to the authority retained in them by virtue of this section, shall be turned over forthwith to the jurisdiction of the Attorney General; *Provided further,* that nothing in this section shall be construed as limiting in any way any authority vested by law in the Secretary of the Treasury, the Department of the Treasury, or any other officer or any agency of that Department on the effective date of this Plan with respect to contraband other than illicit narcotics, dangerous drugs, and marihuana: and *Provided further,* that nothing in this section shall be construed as limiting in any way any authority the Attorney General, the Department of Justice, or any other officer or any agency of that Department may otherwise have to make investigations or engage in law enforcement activities, including activities relating to the suppression of illicit traffic in narcotics, dangerous drugs, and marihuana, at ports of entry or along the land and water borders of the United States.

SEC. 2. *Transfers to the Secretary of the Treasury.* There are hereby transferred to the Secretary of the Treasury all functions vested by law in the Attorney General, the Department of Justice, or any other officer or any agency of that Department, with respect to the inspection at regular inspection locations at ports of entry of persons, and documents of persons, entering or leaving the United States: *Provided,* that any person apprehended or detained by the Secretary or his designee pursuant to this section shall be turned over forthwith to the jurisdiction of the Attorney General: and, *Provided further*, that nothing in this section shall be construed as limiting, in any way, any other authority that the Attorney General may have with respect to the enforcement, at ports of entry or elsewhere, of laws relating to persons entering or leaving the United States.

Repeal.

82 Stat. 1368.
5 USC app. II.

SEC. 3. *Abolition*. The Bureau of Narcotics and Dangerous Drugs, including the Office of Director thereof, is hereby abolished, and section 3(a) of Reorganization Plan No. 1 of 1968 is hereby repealed. The Attorney General shall make such provision as he may deem necessary with respect to terminating those affairs of the Bureau of Narcotics and Dangerous Drugs not otherwise provided for in this Reorganization Plan.

Establishment.

SEC. 4. *Drug Enforcement Administration*. There is established in the Department of Justice an agency which shall be known as the Drug Enforcement Administration, hereinafter referred to as "the Administration."

80 Stat. 460;
83 Stat. 864.

SEC. 5. *Officers of the Administration*. (a) There shall be at the head of the Administration the Administrator of Drug Enforcement, hereinafter referred to as "the Administrator." The Administrator shall be appointed by the President by and with the advice and consent of the Senate, and shall receive compensation at the rate now or hereafter prescribed by law for positions of level III of the Executive Schedule Pay Rates (5 U.S.C. 5314). He shall perform such functions as the Attorney General shall from time to time direct.

(b) There shall be in the Administration a Deputy Administrator of the Drug Enforcement Administration, hereinafter referred to as "the Deputy Administrator," who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Attorney General may from time to time direct, and shall receive compensation at the rate now or hereafter prescribed by law for positions of level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

(c) The Deputy Administrator or such other official of the Department of Justice as the Attorney General shall from time to time designate shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

SEC. 6. *Performance of transferred functions*. (a) The Attorney General may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this Reorganization Plan by any officer, employee, or agency of the Department of Justice.

(b) The Secretary of the Treasury may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this Reorganization Plan by any officer, employee, or agency of the Department of the Treasury.

SEC. 7. *Coordination*. The Attorney General, acting through the Administrator and such other officials of the Department of Justice as he may designate, shall provide for the coordination of all drug law enforcement functions vested in the Attorney General so as to assure maximum cooperation between and among the Administration, the Federal Bureau of Investigation, and other units of the Department involved in the performance of these and related functions.

SEC. 8. *Incidental transfers*. (a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available or to be made available in connection with the functions transferred to the Attorney General and to the Secretary of the Treasury by this Reorganization Plan as the Director of the Office of Management and Budget shall determine shall be transferred to the Department of Justice and to the Department of the Treasury, respectively, at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such Federal agencies as he shall designate.

SEC. 9. *Interim Officers*. (a) The President may authorize any person who, immediately prior to the effective date of this Reorganization Plan, held a position in the Executive Branch of the Government to act as Administrator until the office of Administrator is for the first time filled pursuant to the provisions of this Reorganization Plan or by recess appointment as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Administrator.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect to which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

SEC. 10. *Effective date.* The provisions of this Reorganization Plan shall take effect as provided by section 906(a) of title 5 of the United States Code or on July 1, 1973, whichever is later. 80 Stat. 396.

LEGISLATIVE HISTORY:

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 9, No. 13:
- March 28, Presidential message transmitting plan to Congress.

HOUSE REPORT No. 93-228 accompanying H. Res. 382 (Comm. on Government Operations).

CONGRESSIONAL RECORD, Vol. 119 (1973):
June 7, considered and approved by House.

it's worthwhile to teach 15 minutes more of math a day, but how you motivate kids to take math without ever forcing them to. And doing all these things with all-aged kids at once."

To which Miss Sorenson adds: "Perhaps the most important think that's happened is that we've established an atmosphere in which kids feel accepted—every kind and variety of kid, with all their different personalities and problems and peculiarities, but all accepted on a human basis, as people in their own right. Maybe that's why the students feel good about the school, and maybe that's a big accomplishment."

SENATE—*Wednesday, March 28, 1973*

The Senate met at 12 o'clock meridian and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Thou Divine Creator of all that is beautiful and good and true, we thank Thee for the beauty of this season. For buds and blossoms, for lush lawns and soothing sun, for calm winds and bounding waters, for scampering wildlife and the lyric notes of the birds we give thanks to Thee. As we thank Thee for the new life in nature we thank Thee for the promise of new life in man. May the beauty of sight and sound without be matched by the beauty of life within each of us. Help us to walk with Thee in the holiness of beauty and to worship Thee in the beauty of holiness. We pray Thee so to assist us and all men that at last all nations may come under Thy rulership and men dwell in the peace of Thy kingdom.

We pray through Him whose life was above all life. Amen.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries.

FEDERAL DRUG LAW ENFORCEMENT—MESSAGE FROM THE PRESIDENT

The PRESIDENT pro tempore laid before the Senate a message from the President of the United States, which, with an accompanying paper, was referred to the Committee on Government Operations. The message is as follows:

To the Congress of the United States:

Drug abuse is one of the most vicious and corrosive forces attacking the foundations of American society today. It is a major cause of crime and a merciless destroyer of human lives. We must fight it with all of the resources at our command.

This Administration has declared all-out, global war on the drug menace. As I reported to the Congress earlier this month in my State of the Union message, there is evidence of significant progress on a number of fronts in that war.

Both the rate of new addiction to heroin and the number of narcotic-related deaths showed an encouraging downturn last year. More drug addicts and abusers are in treatment and rehabilitation programs than ever before.

Progress in pinching off the supply of illicit drugs was evident in last year's stepped-up volume of drug seizures worldwide—which more than doubled in 1972 over the 1971 level.

Arrests of traffickers have risen by more than one-third since 1971. Prompt congressional action on my proposal for mandatory minimum sentences for pushers of hard drugs will help ensure that convictions stemming from such arrests lead to actual imprisonment of the guilty.

Notwithstanding these gains, much more must be done. The resilience of the international drug trade remains grimly impressive—current estimates suggest that we still intercept only a small fraction of all the heroin and cocaine entering this country. Local police still find that more than one of every three suspects arrested for street crimes is a narcotic abuser or addict. And the total number of Americans addicted to narcotics, suffering terribly themselves and inflicting their suffering on countless others, still stands in the hundreds of thousands.

A UNIFIED COMMAND FOR DRUG ENFORCEMENT

Seeking ways to intensify our counteroffensive against this menace, I am asking the Congress today to join with this Administration in strengthening and streamlining the Federal drug law enforcement effort.

Funding for this effort has increased sevenfold during the past five years, from $36 million in fiscal year 1969 to $257 million in fiscal year 1974—more money is not the most pressing enforcement need at present. Nor is there a primary need for more manpower working on the problem—over 2,100 new agents having already been added to the Federal drug enforcement agencies under this Administration, an increase of more than 250 percent over the 1969 level.

The enforcement work could benefit significantly, however, from consolidation of our anti-drug forces under a single unified command. Right now the Federal Government is fighting the war on drug abuse under a distinct handicap, for its efforts are those of a loosely confederated alliance facing a resourceful, elusive, worldwide enemy. Admiral Mahan, the master naval strategist, described this handicap precisely when he wrote that "Granting the same aggregate of force, it is never as great in two hands as in one, because it is not perfectly concentrated."

More specifically, the drug law enforcement activities of the United States now are not merely in two hands but in half a dozen. Within the Department of Justice, with no overall direction below the level of the Attorney General, these fragmented forces include the Bureau of Narcotics and Dangerous Drugs, the Office for Drug Abuse Law Enforcement, the Office of National Narcotics Intelligence, and certain activities of the Law Enforcement Assistance Administration. The Treasury Department is also heavily engaged in enforcement work through the Bureau of Customs.

This aggregation of Federal activities has grown up rapidly over the past few years in response to the urgent need for stronger anti-drug measures. It has enabled us to make a very encouraging beginning in the accelerated drug enforcement drive of this Administration.

But it also has serious operational and organizational shortcomings. Certainly the cold-blooded underworld networks that funnel narcotics from suppliers all over the world into the veins of American drug victims are no respecters of the bureaucratic dividing lines that now complicate our anti-drug efforts. On the contrary, these modern-day slave traders can derive only advantage from the limitations of the existing organizational patchwork. Experience has now given us a good basis for correcting those limitations, and it is time to do so.

I therefore propose creation of a single, comprehensive Federal agency within the Department of Justice to lead the war against illicit drug traffic.

Reorganization Plan No. 2 of 1973, which I am transmitting to the Congress with this message, would establish such an agency, to be called the Drug Enforcement Administration. It would be headed by an Administrator reporting directly to the Attorney General.

The Drug Enforcement Administration would carry out the following anti-drug functions, and would absorb the associated manpower and budgets:

—All functions of the Bureau of Narcotics and Dangerous Drugs (which would be abolished as a separate entity by the reorganization plan);

—Those functions of the Bureau of Customs pertaining to drug investigations and intelligence (to be transferred from the Treasury Department to the Attorney General by the reorganization plan);

—All functions of the Office for Drug Abuse Law Enforcement; and

—All functions of the Office of National Narcotics Intelligence.

Merger of the latter two organizations into the new agency would be effected by an executive order dissolving them and transferring their functions, to take effect upon approval of Reorganization Plan No. 2 by the Congress. Drug law enforcement research currently funded by the Law Enforcement Assistance Administration and other agencies would also be transferred to the new agency by executive action.

The major responsibilities of the Drug Enforcement Administration would thus include:

—development of overall Federal drug law enforcement strategy, programs, planning, and evaluation;
—full investigation and preparation for prosecution of suspects for violations under all Federal drug trafficking laws;
—full investigation and preparation for prosecution of suspects connected with illicit drugs seized at U.S. ports-of-entry and international borders;
—conduct of all relations with drug law enforcement officials of foreign governments, under the policy guidance of the Cabinet Committee on International Narcotics Control;
—full coordination and cooperation with State and local law enforcement officials on joint drug enforcement efforts; and
—regulation of the legal manufacture of drugs and other controlled substances under Federal regulations.

The Attorney General, working closely with the Administrator of this new agency, would have authority to make needed program adjustments. He would take steps within the Department of Justice to ensure that high priority emphasis is placed on the prosecution and sentencing of drug traffickers following their apprehension by the enforcement organization. He would also have the authority and responsibility for securing the fullest possible cooperation—particularly with respect to collection of drug intelligence—from all Federal departments and agencies which can contribute to the anti-drug work, including the Internal Revenue Service and the Federal Bureau of Investigation.

My proposals would make possible a more effective anti-drug role for the FBI, especially in dealing with the relationship between drug trafficking and organized crime. I intend to see that the resources of the FBI are fully committed to assist in supporting the new Drug Enforcement Administration.

The consolidation effected under Reorganization Plan No. 2 would reinforce the basic law enforcement and criminal justice mission of the Department of Justice. With worldwide drug law enforcement responsibilities no longer divided among several organizations in two different Cabinet departments, more complete and cumulative drug law enforcement intelligence could be compiled. Patterns of international and domestic illicit drug production, distribution and sale could be more directly compared and interpreted. Case-by-case drug law enforcement activities could be more comprehensively linked, cross-referenced, and coordinated into a single, organic enforcement operation. In short, drug law enforcement officers would be able to spend more time going after the traffickers and less time coordinating with one another.

Such progress could be especially helpful on the international front. Narcotics control action plans, developed under the leadership of the Cabinet Committee on International Narcotics Control, are now being carried out by U.S. officials in cooperation with host governments in 59 countries around the world. This wide-ranging effort to cut off drug supplies before they ever reach U.S. borders or streets is just now beginning to bear fruit. We can enhance its effectiveness, with little disruption of ongoing enforcement activities, by merging both the highly effective narcotics force of overseas Customs agents and the rapidly developing international activities of the Bureau of Narcotics and Dangerous Drugs into the Drug Enforcement Administration. The new agency would work closely with the Cabinet Committee under the active leadership of the U.S. Ambassador in each country where anti-drug programs are underway.

Two years ago, when I established the Special Action Office for Drug Abuse Prevention within the Executive Office of the President, we gained an organization with the necessary resources, breadth, and leadership capacity to begin dealing decisively with the "demand" side of the drug abuse problem—treatment and rehabilitation for those who have been drug victims, and preventive programs for potential drug abusers. This year, by permitting my reorganization proposals to take effect, the Congress can help provide a similar capability on the "supply" side. The proposed Drug Enforcement Administration, working as a team with the Special Action Office, would arm Americans with a potent one-two punch to help us fight back against the deadly menace of drug abuse. I ask full congressional cooperation in its establishment.

IMPROVING PORT-OF-ENTRY INSPECTIONS

No heroin or cocaine is produced within the United States; domestic availability of these substances results solely from their illegal importation. The careful and complete inspection of all persons and goods coming into the United States is therefore an integral part of effective Federal drug law enforcement.

At the present time, however, Federal responsibility for conducting port-of-entry inspections is awkwardly divided among several Cabinet departments. The principal agencies involved are the Treasury Department's Bureau of Customs, which inspects goods, and the Justice Department's Immigration and Naturalization Service, which inspects persons and their papers. The two utilize separate inspection procedures, hold differing views of inspection priorities, and employ dissimilar personnel management practices.

To reduce the possibility that illicit drugs will escape detection at ports-of-entry because of divided responsibility, and to enhance the effectiveness of the Drug Enforcement Administration, the reorganization plan which I am proposing today would transfer to the Secretary of the Treasury all functions currently vested in Justice Department officials to inspect persons, or the documents of persons.

When the plan takes effect, it is my intention to direct the Secretary of the Treasury to use the resources so transferred—including some 1,000 employees of the Immigration and Naturalization Service—to augment the staff and budget of the Bureau of Customs. The Bureau's primary responsibilities would then include:

—inspection of all persons and goods entering the United States;
—valuation of goods being imported, and assessment of appropriate tariff duties;
—interception of contraband being smuggled into the United States;
—enforcement of U.S. laws governing the international movement of goods, except the investigation of contraband drugs and narcotics; and
—turning over the investigation responsibility for all drug law enforcement cases to the Department of Justice.

The reorganization would thus group most port-of-entry inspection functions in a single Cabinet department. It would reduce the need for much day-to-day interdepartmental coordination, allow more efficient staffing at some field locations, and remove the basis for damaging inter-agency rivalries. It would also give the Secretary of the Treasury the authority and flexibility to meet changing requirements in inspecting the international flow of people and goods. An important by-product of the change would be more convenient service for travelers entering and leaving the country.

For these reasons, I am convinced that inspection activities at U.S. ports-of-entry can more effectively support our drug law enforcement efforts if concentrated in a single agency. The processing of persons at ports-of-entry is too closely interrelated with the inspection of goods to remain organizationally separated from it any longer. Both types of inspections have numerous objectives besides drug law enforcement, so it is logical to vest them in the Treasury Department, which has long had the principal responsibility for port-of-entry inspection of goods, including goods being transported in connection with persons. As long as the inspections are conducted with full awareness of related drug concerns it is neither necessary nor desirable that they be made a responsibility of the primary drug enforcement organization.

DECLARATIONS

After investigation, I have found that each action included in Reorganization Plan No. 2 of 1973 is necessary to accomplish one or more of the purposes set forth in Section 901(a) of Title 5 of the United States Code. In particular, the plan is responsive to the intention of the Congress as expressed in Section 901(a)(1): "to promote better execution of the laws, more effective management of the executive branch and of its agencies and functions, and expeditious administration of the public business;" Section 901(a)(3): "to increase the efficiency of the operations of the Government to the fullest extent practicable;" Section 901(a)(5): "to reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies or functions as may not be necessary for the efficient conduct of the Government;" and Section 901(a)(6): "to eliminate overlapping and duplication of effort."

As required by law, the plan has one logically consistent subject matter: consolidation of Federal drug law enforcement activities in a manner designed to increase their effectiveness.

The plan would establish in the Department of Justice a new Administration designated as the Drug Enforcement Administration. The reorganizations provided for in the plan make necessary the appointment and compensation of new officers as specified in Section 5 of the plan. The rates of compensation fixed for these officers would be comparable to those fixed for officers in the executive branch who have similar responsibilities.

While it is not practicable to specify all of the expenditure reductions and other economies which may result from the actions proposed, some savings may be anticipated in administrative costs now associated with the functions being transferred and consolidated.

The proposed reorganization is a necessary step in upgrading the effectiveness of our Nation's drug law enforcement effort. Both of the proposed changes would build on the strengths of established agencies, yielding maximum gains in the battle against drug abuse with minimum loss of time and momentum in the transition.

I am confident that this reorganization plan would significantly increase the overall efficiency and effectiveness of the Federal Government. I urge the Congress to allow it to become effective.

RICHARD NIXON.

THE WHITE HOUSE, *March 28, 1973*.

EXECUTIVE MESSAGES REFERRED

As in executive session, the President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Perry, one of its reading clerks, announced that the House had passed the bill (H.R. 3841) to provide for the striking of medals in commemoration of Roberto Walker Clemente, in which it requested the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution:

H.R. 5445. An act to extend the Clean Air Act, as amended, for 1 year;

H.R. 5446. An act to extend the Solid Waste Disposal Act, as amended, for 1 year; and

H.J. Res. 8. A joint resolution requesting the President to issue a proclamation designating the week of April 23, 1973, as "Nicolaus Copernicus Week" marking the quinquecentennial of his birth.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore.

HOUSE BILL REFERRED

The bill (H.R. 3841) to provide for the striking of medals in commemoration of Roberto Walker Clemente was read twice by its title and referred to the Committee on Banking, Housing and Urban Affairs.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, March 27, 1973, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

BILLS ON THE CALENDAR

Mr. SCOTT of Pennsylvania. Mr. President, I merely wish to say, for the benefit of all Senators, that under the Reorganization Act bills on the calendar stay there 3 days unless the majority or minority leader, as authorized by statute, waive the 3-day provision.

I note that all the bills on the calendar at the present time, except Calendar Nos. 92 and 93, have been on the calendar for more than 3 days. The Daily Digest, which appears in each CONGRESSIONAL RECORD, will serve to bring up to date any developments which occur after the printing of the last edition of the calendar. So that by yesterday we were up to Calendar No. 91, and we disposed of Calendar No. 91. There have been added Calendar Nos. 92 and 93.

I would urge all Senators to designate someone in their office—perhaps their legislative assistant—to look at the calendar daily and to look at the Digest, and if they wish to be especially notified with regard to any bill, that they let us know, or if for any reason they wish to suggest a time of consideration, that they let us know. We will be very glad to cooperate.

We have been observing at least the 1-day notice. We are committed to observing the full 3 days notice, although there will be times when the majority and minority leaders—for reasons of emergency or for reasons where it is important to accommodate a situation—will feel constrained to ask for a waiver of the notice. However, we will do our best to protect all Senators. I merely wanted the RECORD to show it.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. SCOTT of Pennsylvania. I yield.

Mr. MANSFIELD. I am in full accord with the remarks just made by the distinguished Republican leader.

The PRESIDING OFFICER (Mr. HASKELL). Under the previous order, the Senator from Alaska (Mr. STEVENS) is recognized for not to exceed 15 minutes.

Mr. GRIFFIN. With the permission of the majority leader and the acting majority leader, I ask unanimous consent that the order be reversed and that the Senator from Alaska may be recognized second.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Michigan (Mr. GRIFFIN) is recognized for not to exceed 15 minutes.

LAST AMERICANS LEAVE VIETNAM

Mr. GRIFFIN. Mr. President, during the next 24 hours the last of our remaining American combat troops will leave Vietnam. And during that period, the last of the known American prisoners of war held by North Vietnam and the Vietcong will be released to head for home.

Remaining in Vietnam will be only the Marine guard at the U.S. Embassy, some military attachés, and the soon-to-be terminated U.S. military delegation to the Joint Commission to Oversee the Repatriation.

This is a moment and a day, I suggest, that should not pass unnoticed, now that the long, difficult process of American disengagement from Vietnam has finally been accomplished.

As the last American combat soldier leaves Vietnam, it is noteworthy that South Vietnam is a free nation; its people have not been taken over by force; the country has not been conquered. To be sure, the nation is still beleagured; there are still serious problems. But the South Vietnamese are able now to defend themselves as a result of help given by the United States.

All in all, during the period from January 1, 1965, to December 31, 1972, about 2,594,000 Americans served in Vietnam. The number stationed in Vietnam at one time reached a peak of 543,000 shortly before newly inaugurated President Nixon announced his Vietnamization program and set a timetable for the first of a series of orderly withdrawals of American forces.

As the months went by, President Nixon continued to announce withdrawal goals. Each and every announced withdrawal occurred on or before the date set by President Nixon.

Now it can be said that his plan for ending U.S. participation in the Vietnam war has worked.

Now, as we await word expected within a matter of hours that the last and final U.S. combat soldier has left Vietnam, it is most appropriate that we take a moment to salute the leadership that made this day possible, and to say, "Thank you, Mr. President, for a job well done."

93D CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 93-303

AMENDING REORGANIZATION PLAN NO. 2 OF 1973

JUNE 21, 1973.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. HOLIFIELD, from the Committee on Government Operations, submitted the following

REPORT

together with

SEPARATE VIEWS

[To accompany H.R. 8245]

The Committee on Government Operations, to whom was referred the bill (H.R. 8245) to amend Reorganization Plan No. 2 of 1973, having considered the same, report favorably thereon without amendment, and recommend that the bill do pass.

PURPOSE OF THE BILL

H.R. 8245 will repeal section 2 and subsection 6(b) and modify section 8 of Reorganization Plan No. 2 of 1973. This plan was transmitted to the Congress by President Nixon on March 28, 1973. A resolution (H. Res. 382) to disapprove the plan was rejected in the House on June 7, 1973, by a vote of 281 to 130, thereby permitting the plan to take effect. The effective date as specified in the plan is July 1, 1973.

Reorganization Plan No. 2 of 1973 has two parts. The first part of the plan establishes in the Department of Justice a new agency, the Drug Enforcement Administration. The second part of the plan, which would be repealed by H.R. 8245, transfers to the Secretary of the Treasury functions vested by law in the Attorney General or the Department of Justice regarding the inspection of persons and documents at U.S. ports of entry. This part would have caused the transfer of approximately 900 agents from the Immigration and Naturalization Service in the Justice Department to the Customs Bureau in the Treasury Department.

In the course of the subcommittee hearings on Reorganization Plan No. 2, and subsequently, it became evident that the second part of the reorganization plan was very controversial. It was opposed by union representatives of employees in the Immigration and Naturalization Service. The concern, shared by many Members of Congress, was that the transfer of so large a complement of persons from the Service at this time would have a detrimental effect on morale and the ability to perform.

The Immigration and Naturalization Service is confronted with a serious problem of illegal entry of aliens into the United States. There are said to be more than a million illegal aliens in the country now. About a half-million illegal aliens a year (judging by 1972 figures) are being apprehended and returned, but the Service obviously is undermanned for this difficult job.

As a result of discussions between administration and union representatives, certain understandings were reached and summarized in written form.[1] The administration agreed to support the repeal of section 2 and subsection 6(b) of the plan, and to make a conscientious effort to expand the number of, and upgrade, positions in the Immigration and Naturalization Service. The union then expressed its willingness to withdraw opposition to the plan.

During the floor debate on Reorganization Plan No. 2 of 1973, the situation was fully explained and assurances given by Committee Chairman Holified that prompt action would be taken to consider and report a bill repealing the objectionable part. H.R. 8245 carries out that pledge.

Once a reorganization plan is transmitted by the President to the Congress, it must be accepted or rejected as a whole. It cannot be amended. The Reorganization Act of 1949, as amended—the enabling legislation for reorganization plans—places the responsibility for preparation of a plan in the President and gives the Congress only a veto power. However, a reorganzation plan can be amended by a subsequent reorganization plan, or by a statute. H.R. 8245 is such an amending measure.

HEARING

A hearing on H.R. 8245 was held by the Subcommittee on Legislation and Military Operations on Thursday, June 14, 1973.[2] Testifying in support of the bill were Roy L. Ash and Frederic V. Malek, Director and Deputy Director, respectively, of the Office of Management and Budget; and James H. Lynch, a representative of the American Federation of Government Employees. Letters endorsing the bill were received from the Departments of Justice and Treasury, and the AFL-CIO.

Dissenting testimony was given by John J. Murphy, president of the National Customs Service Association. Approximately 500 special investigative agents of the Customs Bureau, engaged in drug related activities, are to be transferred to the Department of Justice under the reorganization plan. The association believes that a unified drug enforcement organization should be located in the Treasury Department rather than in the Justice Department and should be established by statute rather than by reorganization plan. However, this testimony was presented after the House had, by disapproving H. Res. 382, endorsed the location of the new drug unit in the Justice Department.

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[1] See H. Rept. No 93-228 to accompany H. Res. 382, appendix.

[2] Hearings, "Amending Reorganization Plan No. 2 of 1973," 93d Cong., 1st sess.

COMMITTEE VOTE

The Subcommittee on Legislation and Military Operations recommended by a vote of 10 to 0 that H.R. 8245 be approved. The Full Committee, at its meeting on June 21, 1973, voted to report the bill favorably to the House. The vote was 35 aye, 2 no, 1 present.

COST ESTIMATE

No additional costs are involved in the enactment of this legislation.

SECTION-BY-SECTION ANALYSIS

Section 1 repeals section 2 and subsection 6(b) and redesignates section 6(a) as section 6 of Reorganization Plan Numbered 2 of 1973; and strikes the language "and to the Secretary of the Treasury" and "and to the Department of the Treasury, respectively," from section 8 of Reorganization Plan Numbered 2 of 1973. The effect is to nullify the transfer to the Secretary of the Treasury of all functions vested by law in the Attorney General, the Department of Justice, or any officer or component of that Department, with respect to the inspection, at regular inspection locations at ports of entry of persons, and documents of persons, entering or leaving the United States.

Section 2 provides that the amendments made by this Act shall be effective on the date of enactment, or as of July 1, 1973, whichever is earlier. The effect is to coincide the repeal provisions with the effective date of the reorganization plan if the bill is enacted after the time (July 1, 1973) the Plan takes effect.

CHANGES IN REORGANIZATION PLAN NO. 2 OF 1973 MADE BY THE BILL, AS REPORTED

For the information of the Members of the House of Representatives, changes in Reorganization Plan No. 2 of 1973 made by the bill, as reported, are shown as follows (matter proposed to be omitted is enclosed in black brackets, matter in which no change is proposed is shown in roman):

REORGANIZATION PLAN NO. 2 OF 1973

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 28, 1973, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

LAW ENFORCEMENT IN ILLICIT DRUG ACTIVITIES

Section 1. Transfers to the Attorney General. There are hereby transferred from the Secretary of the Treasury, the Department of the Treasury, and any other officer or any agency of the Department of the Treasury, to the Attorney General all intelligence, investigative, and law enforcement functions, vested by law in the Secretary, the Department, officers, or agencies which relate to the suppression of illicit traffic in narcotics, dangerous drugs, or marihuana, except that the Secretary **shall retain**, and continue to perform, those functions, to the extent that they relate to searches and seizures of illicit narcotics, dangerous drugs, or marihuana or to the apprehension or detention of persons in connection therewith, at regular inspection locations at ports of entry or anywhere along the land or water borders of the United States: *Provided*, That any illicit narcotics, dangerous drugs, marihuana, or related evidence seized, and any person apprehended or detained by the Secretary or any officer of the Department of the Treasury, pursuant to the authority retained in them by virtue of this section, shall be turned over forthwith to the jurisdiction of the Attorney General; *Provided further*, That nothing in this section shall be construed as limiting in any way any authority vested by law in the Secretary of the Treasury, the Department of the Treasury, or any other officer or any agency of that Department on the effective date of this Plan with respect to contraband other than illicit narcotics, dangerous drugs, and marihuana; and *Provided further*, That nothing in this section shall be construed as limiting in any way any authority the Attorney General, the Department of Justice, or any other officer or any agency of that Department may otherwise have to make investigations or engage in law enforcement activities, including activities relating to the suppression of illicit traffic in narcotics, dangerous drugs, and marihuana, at ports of entry or along the land and water borders of the United States.

[Sec. 2. Transfers to the Secretary of the Treasury. There are hereby transferred to the Secretary of the Treasury all functions vested by law in the Attorney General, the Department of Justice, or any other officer or any agency of that Department, with respect to the inspection at regular inspection locations at ports of entry of persons, and documents of persons, entering or leaving the United States: *Provided*, That any person apprehended or detained by the Secretary or his designee pursuant to this section shall be turned over forthwith to the jurisdiction of the Attorney General: and, *Provided further*, That nothing in this section shall be construed as limiting, in any way, any other authority that the Attorney General may have with respect to the enforcement, at ports of entry or elsewhere, of laws relating to persons entering or leaving the United States.]

Sec. 3. Abolition. The Bureau of Narcotics and Dangerous Drugs, including the Office of Director thereof, is hereby abolished, and section 3(a) of Reorganization Plan No. 1 of 1968 is hereby repealed. The Attorney General shall make such provision as he may deem necessary with respect to terminating those affairs of the Bureau of Narcotics and Dangerous Drugs not otherwise provided for in this Reorganization Plan.

Sec. 4. Drug Enforcement Administration. There is established in the Department of Justice an agency which shall be known as the Drug Enforcement Administration, hereinafter referred to as "the Administration."

Sec. 5. Officers of the Administration. (a) There shall be at the head of the Administration the Administrator of Drug Enforcement, hereinafter referred to as "the Administrator." The Administrator shall be appointed by the President by and with the advice and consent of the Senate, and shall receive compensation at the rate now or hereafter prescribed by law for positions of level III of the Executive Schedule

Pay Rates (5 U.S.C. 5314). He shall perform such functions as the Attorney General shall from time to time direct.

(b) There shall be in the Administration a Deputy Administrator of the Drug Enforcement Administration, hereinafter referred to as "the Deputy Administrator," who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Attorney General may from time to time direct, and shall receive compensation at the rate now or hereafter prescribed by law for positions of level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

(c) The Deputy Administrator or such other official of the Department of Justice as the Attorney General shall from time to time designate shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

Sec. 6. Performance of transferred functions. [(a)] The Attorney General may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this Reorganization Plan by any officer, employee, or agency of the Department of Justice.

[(b) The Secretary of the Treasury may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this Reorganization Plan by any officer, employee, or agency of the Department of the Treasury.]

Sec. 7. *Coordination.* The Attorney General, acting through the Administrator and such other officials of the Department of Justice as he may designate, shall provide for the coordination of all drug law enforcement functions vested in the Attorney General so as to assure maximum cooperation between and among the Administration, the Federal Bureau of Investigation, and other units of the Department involved in the performance of these and related functions.

Sec. 8. *Incidental transfers.* (a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available or to be made available in connection with the functions transferred to the Attorney General [and to the Secretary of the Treasury] by this Reorganization Plan as the Director of the Office of Management and Budget shall determine shall be transferred to the Department of Justice [and to the Department of the Treasury, respectively,] at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such Federal agencies as he shall designate.

Sec. 9. *Interim Officers.* (a) The President may authorize any person who, immediately prior to the effective date of this Reorganization Plan, held a position in the Executive Branch of the Government to act as Administrator until the office of Administrator is for the first time filled pursuant to the provisions of this Reorganization Plan or by recess appointment as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Administrator.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect to which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

SEC. 10. *Effective date.* The provisions of this Reorganization Plan shall take effect as provided by section 906(a) of title 5 of the United States Code or on July 1, 1973, whichever is later.

APPENDIX

STATEMENT OF ROY L. ASH, DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET, JUNE 14, 1973

Thank you, Mr. Chairman, and members of the committee.

I am pleased to be able to appear before you today in support of H.R. 8245 which would repeal section 2 of Reorganization Plan No. 2 of 1973.

I was gratified to see the strong support that reorganization plan received in the House on June 7. The consolidation of drug law enforcement activities within the new Drug Enforcement Administration should make possible a major new offensive in the President's global war against drug abuse.

Reorganization Plan No. 2 was proposed with the goal of improving all aspects of the Federal Government's drug enforcement effort. The plan, therefore, proposed not only consolidation of drug investigative and intelligence efforts within a new agency at the Department of Justice, but also addressed the issue of inspection at our ports of entry. Section 2 of the plan provided for reducing the present fragmentation of organizational responsibility for port-of-entry inspections by placing the task of inspecting both goods and people under a single manager, the Bureau of Customs. Approximately 900 immigration inspectors were to have been transferred from the Immigration and Naturalization Service to the Bureau of Customs under this section of the plan.

Because all heroin and cocaine consumed in the United States must be smuggled into the country from abroad the careful inspection of all persons and goods entering the United States is vitally important to improved drug law enforcement.

However, it became clear during the course of your committee's consideration of the plan that the transfers envisioned by section 2 might have other consequences, unrelated to the control of drugs, which many Members feared might be undesirable. In particular, concern was voiced that implementation of this portion of the plan might adversely affect the Nation's illegal alien control capability.

This administration is fully committed to the objective of enhancing the Federal Government's ability to deal effectively with the very serious illegal alien problem. As I indicated May 17, 1973, by letter to Chairman Holifield, we understand the need to increase the effort and resources devoted to illicit alien control and, in particular, to consider adding manpower to the internal investigative elements of INS and the border patrol. We intend to work closely with Congress in exploring these alternatives, as well as other ways in which Federal enforcement agencies can deal more effectively with the illegal alien control problem which deprives American workers of jobs and adds an unwanted additional levy onto already overburdened Federal, State, and local taxpayers.

While we have yet to see convincing evidence that the establishment of a single manager at points of entry is undesirable either from the standpoint of drug enforcement or better alien control, we do acknowledge that the illegal alien control issue is complex and deserves further detailed study by both Congress and the executive branch. We also sense that a majority of this committee would find it preferable to maintain the status quo with respect to any organizational transfers of immigration inspectors pending completion of this further detailed review.

We reached these conclusions as a result of lengthy consultations with Chairman Holifield and Representative Horton, with members of this committee's staff, and with representatives of outside groups interested in illegal alien control. At the time when these deliberations took place, the Reorganization Plan could not be amended or resubmitted. Because of our conviction that the consolidation of Federal drug enforcement agencies—the main purpose of the plan—should take place as scheduled on July 1, 1973, we very much wanted to insure that nothing stand in the way of implementing section 1 of the plan which established the much needed Drug Enforcement Administration.

We, therefore, recommended to the Congress that the Reorganization Plan be allowed to go into effect with the understanding that repeal of section 2 would be supported by the administration. This approach received the support in advance of affected committee leadership in both the Senate and the House and was extensively discussed on the House floor.

Given the chronology of events, the complexity of the alien issue, and the fact that the House voted its approval of Reorganization Plan only after being assured during debate that the transfers envisioned by section 2 of the plan would not take place pending further review of the illegal alien problem. I ask the committee's support for H.R. 8245 which would repeal section 2 of Reorganization Plan No. 2 of 1973.

Thank you, Mr. Chairman.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., June 12, 1973.

Hon. CHET HOLIFIELD,
Chairman, House Committee on Government Operations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: During the course of the Congressional review of Reorganization Plan No. 2 of 1973, serious questions were raised as to the wisdom of Section 2 of that proposal. Further review of the provisions of this section will be necessary if we are to be assured the course proposed is the one of greatest wisdom.

The bill which you are considering, H.R. 8245, will repeal Section 2 of the Reorganization Plan, and provide the opportunity for reexamination of its provisions.

I am pleased to support its passage and trust that it will receive expeditions action by your Committee and the House of Representatives.

With kindest regards,

Sincerely,

ELLIOT L. RICHARDSON,
Attorney General.

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THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., June 18, 1973.

Hon. CHET HOLIFIELD,
Chairman, Committee on Government Operations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on H.R. 8245, "To amend Reorganization Plan Numbered 2 of 1973."

The proposed legislation would amend Reorganization Plan No. 2 of 1973 to repeal provisions providing for the transfer to, and the performance by, the Secretary of the Treasury of functions of the Attorney General, the Department of Justice and any other officer or agency of the Department of Justice, with respect to the inspection at regular inspection locations at ports of entry of persons and documents of persons entering or leaving the United States.

The proposed legislation incorporates the provisions of a draft bill submitted to the Congress by the Office of Management and Budget on May 29, 1973.

The Department recommends the enactment of H.R. 8245.

The Department has been advised by the Office of Management and Budget that there is no objection to the submission of this report to your Committee and that enactment of H.R. 8245 would be consistent with the Administration's objectives.

Sincerely yours,

EDWARD C. SCHMIDT,
General Counsel.

AMERICAN FEDERATION OF LABOR AND
CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., June 19, 1973.

Hon. CHET HOLIFIELD,
Chairman, House Government Operations Committee, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: It is our understanding that the House Committee on Government Operations will on Thursday, June 21, 1973, take up for consideration H.R. 8245, the bill introduced by yourself and Representative Frank Horton.

H.R. 8245 would repeal section 2 of Reorganization Plan Number 2 of 1973 under which major elements of the inspection functions, involving some 900 employees of the Immigration and Naturalization Service would be transferred to the Bureau of Customs. As you know, the AFL-CIO Executive Council vigorously opposed this transfer.

Enactment of H.R. 8245 is called for in order to carry out the terms of the agreement that was reached early this month among representatives of the AFL-CIO, the American Federation of Government Employees and the Deputy Administrator of the Office of Management and Budget, that section 2 of Reorganization Plan Number 2 should not be allowed to go into effect and that legislation should be sought to accomplish this purpose. H.R. 8245 is designed to accomplish this objective. H.R. 8245 has the support of the AFL-CIO and we urge its prompt approval by the Committee on Government Operations and the House of Representatives.

Sincerely,

ANDREW J. BIEMILLER,
Director, Department of Legislation.

SEPARATE VIEWS OF HON. JACK BROOKS

While I have no particular objection to the substance of this legislation and, in fact, would probably support it had it arisen in the usual legislative manner, I do have grave concern about the circumstances giving rise to the need for it.

This bill is the result of an extra-legislative agreement between the administration and third parties. It is a part of a chain of events designed to circumvent the Rules of the House prohibiting amendments to reorganization plans. The problems confronting this committee and the House when Reorganization Plan 2 was under consideration vividly demonstrate the deficiencies of the Executive Reorganization Act, and those must be corrected if and when that authority is renewed.

I fully agree that Reorganization Plan 2 was badly drafted and that section 2 of the plan transferring INS inspectors to the Customs Bureau was not an acceptable proposal. However, the desired result could have been achieved pursuant to proper legislative procedure. Since this legislation was generated by and is a part of the overall design to circumvent the Rules of the House, I do not feel I can lend my support to it. I, therefore, have abstained from participation in its consideration.

JACK BROOKS.

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Calendar No. 564

93D CONGRESS } SENATE { REPORT
1st Session } { No. 93-588

AMENDING REORGANIZATION PLAN NO. 2 OF 1973, AND PROVIDING A REMEDY AGAINST THE UNITED STATES FOR INTENTIONAL TORTS OF ITS INVESTIGATIVE AND LAW ENFORCEMENT OFFICERS

NOVEMBER 20, 1973.—Ordered to be printed

Mr. ERVIN, from the Committee on Government Operations, submitted the following

REPORT

[To accompany H.R. 8245]

The Committee on Government Operations, to which was referred the bill (H.R. 8245) to amend Reorganization Plan No. 2 of 1973, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

PURPOSE

The purpose of H.R. 8245, as amended, is (1) to repeal those sections of Reorganization Plan No. 2 of 1973 which transferred to the Secretary of the Treasury certain functions vested by law in the Attorney General, of the Department of Justice regarding the inspection of persons and documents at U.S. ports of entry; and (2) to provide a remedy against the United States for the intentional torts of its investigative and law enforcement officers.

BACKGROUND

Section 1. Reorganization Plan No. 2 of 1973 established in the Department of Justice a new agency, the Drug Enforcement Administration, and transferred to the Secretary of the Treasury functions vested by law in the Attorney General, or the Department of Justice, regarding the inspection of persons and documents at U.S. ports of entry. This function involves approximately 900 immigration inspectors who, under the provisions of the Reorganization Plan, were transferred from the Immigration and Naturalization Service of the Department of Justice to the Customs Bureau of the Department of the Treasury.

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During the course of Committee consideration of Plan No. 2 of 1973, it became apparent that there was wide-scale opposition to the proposed transfers by the immigration inspectors involved, by the American Federation of Government Employees and by Members of Congress. Following discussions between administration and union representatives, certain understandings were reached whereby the administration agreed not to implement the transfer provided for in the Plan. A memorandum embodying the terms of the agreement was placed in the files of the Committee, and the American Federation of Government Employees agreed to withdraw its opposition to the Plan.

During floor debate in the House of Representatives on H. Res. 382, to disapprove Reorganization Plan No. 2, Congressman Holifield, Chairman of the House Committee on Government Operations, explained the situation and gave assurances that prompt action would be taken to consider and report a bill repealing the objectionable portions of Reorganization Plan No. 2. The resolution of disapproval was defeated and the Plan became effective on July 1, 1973.

H.R. 8245, which passed the House of Representatives on July 17, 1973, would repeal section 2 and subsection 6(b) and modify section 8 of Reorganization Plan No. 2 of 1973, thus nullifying the transfers of the immigration inspectors provided for in the Plan.

Section 2. This section represents a Committee amendment to the bill as it passed the House. This amendment proposed by the chairman, and Senators Percy and Javits grows out of hearings held by the Committee on the Reorganization Plan last spring. During the course of these hearings several incidents were brought to the Committee's attention in which Federal narcotics agents engaged in abusive, illegal and unconstitutional "no-knock" raids. The Committee's amendment is designed to prevent future abuses of the Federal "no-knock" statute (21 U.S.C. 879).

The most notorious of these raids occurred on April 29 of this year in Collinsville, Illinois. In separate incidents involving the same Justice Department agents, "no-knock" raids were conducted into two different homes in Collinsville. The agents entered the two houses without warrants in violation of the Federal "no-knock" statute, kicked in the doors without warning, shouting obscenities, and threatening the occupants with drawn weapons. The terrified inhabitants were only temporarily relieved when the agents left after discovering that they had entered the wrong houses.

There is no effective legal remedy against the Federal Government for the actual physical damage, much less the pain, suffering and humiliation to which the Collinsville families have been subjected. Since they were not then suspects, nor are they now Federal defendants, they cannot move in a prosecution to suppress evidence, the traditional remedy for violation of Fourth Amendment rights. Indeed there was not any evidence seized in these raids because, of course, the agents were at the wrong addresses. Furthermore, neither family can recover from the Federal Government in a civil action because of the doctrine of sovereign immunity.

As a general principle under present law, if a Federal agent violates someone's constitutional rights—for instance, Fourth Amendment rights against illegal search and seizure—there is no remedy against the Federal Government. This ancient doctrine—sovereign immunity—stands as a bar.

Only recently was there even a right of action against the offending officers themselves. In the case of *Bivens* v. *Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971), the Supreme Court held that the Fourth Amendment and elementary justice require that there be a right of action against the Federal agents for illegal searches conducted in bad faith or without probable cause. Of course, Federal agents are usually judgment proof so this is a rather hollow remedy.

For years scholars and commentators have contended that the Federal Government should be liable for the tortious acts of its law enforcement officers when they act in bad faith or without legal justification. However, the Federal Torts Claims Act (28 U.S.C. 2671–2680) the embodiment of sovereign immunity in the United States Code, protects the Federal Government from liability where its agents commit intentional torts such as assault and battery. The injustice of this provision should be manifest—for under the Federal Torts Claims Act a Federal mail truck driver creates direct federal liability if he negligently runs down a citizen on the street but the Federal Government is held harmless if a federal narcotics agent intentionally assaults that same citizen in the course of an illegal "no-knock" raid.

COMMITTEE ACTION

The Committee amendment to the bill, contained in a new section 2 thereof, would add a proviso at the end of the intentional torts exception to the Federal Tort Claims Act (28 U.S.C. 2680(h)). The effect of this provision is to deprive the Federal Government of the defense of sovereign immunity in cases in which Federal law enforcement agents, acting within the scope of their employment, or under color of Federal law, commit any of the following torts: assault, battery, false imprisonment, false arrest, malicious prosecution, or abuse of process. Thus, after the date of enactment of this measure, innocent individuals who are subjected to raids of the type conducted in Collinsville, Illinois, will have a cause of action against the individual Federal agents and the Federal Government. Furthermore, this provision should be viewed as a counterpart to the *Bivens* case and its progenty, in that it waives the defense of sovereign immunity so as to make the Government independently liable in damages for the same type of conduct that is alleged to have occurred in *Bivens* (and for which that case imposes liability upon the individual Government officials involved).

The Committee realizes that under the Federal Tort Claims Act, Government tort liability for intentional conduct is unclear. For example certain intentional torts such as trespass and invasion of priacy are not always excluded from Federal Tort Claims Act coverage. Obviously, it is the intent of the Committee that these borderline cases under the present law, such as trespass and invasion of privacy, would be viewed as clearly within the scope of the Federal Torts Claims Act, if the amendment is adopted.

This whole matter was brought to the attention of the Committee in the context of the Collinsville raids, where the law enforcement abuses involved Fourth Amendment constitutional torts. Therefore, the Committee amendment would submit the Government to liability whenever its agents act under color of law so as to injure the public through search and seizures that are conducted without warrants or with warrants issued without probable cause. However, the Committee's amendment should not be viewed as limited to constitutional tort situations but would apply to any case in which a Federal law enforcement agent committed the tort while acting within the scope of his employment or under color of Federal law.

The administration is aware of this amendment to H.R. 8245, which is the product of over 2 months of discussion between the staff of the Committee, the Office of Management and Budget and the Department of Justice. The Committee has been informed that the administration, and, in particular, the Department of Justice, has no objection to the amendment. Therefore the Committee urges speedy adoption of this measure as a minimal first step in providing a remedy against the Federal Government for innocent victims of Federal law enforcement abuses.

COSTS

Since it is not possible to forecast the number of civil damage suits which may be brought against the United States under the provisions of this bill, or the amount damages assessed against the United States, if any, it is not possible to estimate the costs which may result.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

REORGANIZATION PLAN NO. 2 OF 1973

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 28, 1973, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

LAW ENFORCEMENT IN ILLICIT DRUG ACTIVITIES

Section 1. Transfers to the Attorney General. There are hereby transferred from the Secretary of the Treasury, the Department of the Treasury, and any other officer or any agency of the Department of the Treasury, to the Attorney General all intelligence, investigative, and law enforcement functions, vested by law in the Secretary, the Department, officers, or agencies which relate to the suppression of illicit traffic in narcotics, dangerous drugs, or marihuana, except that the Secretary shall retain, and continue to perform, those functions, to the extent that they relate to searches and seizures of illicit narcotics, dangerous drugs, or marihuana or to the apprehension or detention of persons in connection therewith, at regular inspection locations at ports of entry or anywhere along the land or water borders of the United States: *Provided*, That any illicit narcotics, dangerous drugs, marihuana, or related evidence seized, and any person apprehended or detained by the Secretary or any officer of the Department of the Treasury, pursuant to the authority retained in them by virtue of this section, shall be turned over forthwith to the jurisdiction of the Attorney General; *Provided further*, That nothing in this section shall be construed as limiting in any way any authority vested by law in the Secretary of the Treasury, the Department of the Treasury, or any other officer or any agency of that Department on the effective date of this Plan with respect to contraband other than illicit narcotics, dangerous drugs, and marihuana; and *Provided further*, That nothing in this section shall be construed as limiting in any way any authority the Attorney General, the Department of Justice, or any other officer or any agency of that Department may otherwise have to make investigations or engage in law enforcement activities, including activities relating to the suppression of illicit traffic in narcotics, dangerous drugs, and marihuana, at ports of entry or along the land and water borders of the United States.

[Sec. 2. Transfers to the Secretary of the Treasury. There are hereby transferred to the Secretary of the Treasury all functions vested by law in the Attorney General, the Department of Justice, or any other officer or any agency of that Department, with respect to the inspection at regular inspection locations at ports of entry of persons, and documents of persons, entering or leaving the United States: *Provided*, That any person apprehended or detained by the Secretary or his designee pursuant to this section shall be turned over fothwith to the jurisdiction of the Attorney General: and, *Provided further*, That nothing in this section shall be construed as limiting, in any way, any other authority that the Attorney General may have with respect to the enforcement, at ports of entry or elsewhere, of laws relating to persons entering or leaving the United States.]

Sec. 3. Abolition. The Bureau of Narcotics and Dangerous Drugs, including the Office of Director thereof, is hereby abolished, and section 3(a) of Reorganization Plan No. 1 of 1968 is hereby repealed. The Attorney General shall make such provision as he may deem necessary with respect to terminating those affairs of the Bureau of Narcotics and Dangerous Drugs not otherwise provided for in the Reorganization Plan.

Sec. 4. Drug Enforcement Administration. There is established in the Department of Justice an agency which shall be known as the Drug Enforcement Administration, hereinafter referred to as "the Administration."

Sec. 5. Officers of the Administration. (a) There shall be at the head of the Administration the Administrator of Drug Enforcement, hereinafter referred to as "the Administrator." The Administrator shall be appointed by the President by and with the advice and consent of the Senate, and shall receive compensation at the rate now or hereafter prescribed by law for positions of level III of the Executive Schedule Pay Rates (5 U.S.C. 5314). He shall perform such functions as the Attorney General shall from time to time direct.

(b) There shall be in the Administration a Deputy Administrator of the Drug Enforcement Administration, hereinafter referred to as "the Deputy Administrator," who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Attorney General may from time to time direct, and shall receive compensation at the rate now or hereafter prescribed by law for positions of level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

(c) The Deputy Administrator or such other official of the Department of Justice as the Attorney General shall from time to time designate shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

Sec. 6. Performance of transferred functions. [(a)] The Attorney General may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this Reorganization Plan by any officer, employee, or agency of the Department of Justice.

[(b) The Secretary of the Treasury may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this Reorganization Plan by any officer, employee, or agency of the Department of the Treasury.]

Sec. 7. *Coordination.* The Attorney General, acting through the Administrator and such other officials of the Department of Justice as he may designate, shall provide for the coordination of all drug law enforcement functions vested in the Attorney General so as to assure maximum cooperation between and among the Administration, the Federal Bureau of Investigation, and other units of the Department involved in the performance of these and related functions.

Sec. 8. *Incidental transfers.* (a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available or to be made available in connection with the functions transferred to the Attorney General [and to the Secretary of the Treasury] by this Reorganization Plan as the Director of the Office of Management and Budget shall determine shall be transferred to the Department of Justice [and to the Department of the Treasury, respectively,] at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such Federal agencies as he shall designate.

Sec. 9. *Interim Officers.* (a) The President may authorize any person who, immediately prior to the effective date of this Reorganization Plan, held a position in the Executive Branch of the Government to act as Administrator until the office of Administrator is for the first time filled pursuant to the provisions of this Reorganization Plan or by recess appointment as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Administrator.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect to which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

SEC. 10. *Effective date.* The provisions of this Reorganization Plan shall take effect as provided by section 906(a) of title 5 of the United States Code or on July 1, 1973, whichever is later.

Chapter 171 of Title 28. Tort Claims Procedure

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Sec. 2680. Exceptions.

The provisions of this chapter and section 1346(b) of this title shall not apply to—

* * * * * * *

(h) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights: *Provided that, with regard to acts or omissions of investigative or law enforcement officers of the United States government, the provisions of this chapter and section 1346(b) of this title shall apply to any claim arising on or after the enactment of this Proviso out of assault, battery, false imprisonment, false arrest, abuse of process or malicious prosecution. For the purpose of this subsection 'investigative or law enforcement officer' means any officer of the United States who is empowered by law to execute searches, to seize evidence or to make arrests for violations of Federal law.*

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Union Calendar No. 789

93d Congress, 2d Session - - - - - - - - House Report No. 93-1630

LAW ENFORCEMENT ON THE SOUTHWEST BORDER

(PROBLEMS OF COORDINATION BETWEEN IMMIGRATION AND NATURALIZATION SERVICE AND CUSTOMS SERVICE)

TWENTY-FIFTH REPORT

BY THE

COMMITTEE ON GOVERNMENT OPERATIONS

DECEMBER 18, 1974.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
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LETTER OF TRANSMITTAL

House of Representatives,
Washington, D.C., December 18, 1974.

Hon. Carl Albert,
*Speaker of the House of Representatives.
Washington, D.C.*

Dear Mr. Speaker: By direction of the Committee on Government Operations, I submit herewith the committee's twenty-fifth report to the 93d Congress. The committee's report is based on a study made by its Legislation and Military Operations Subcommittee.

Chet Holifield, *Chairman.*

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Union Calendar No. 789

93D CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 93-1630

LAW ENFORCEMENT ON THE SOUTHWEST BORDER

(PROBLEMS OF COORDINATION BETWEEN IMMIGRATION AND NATURALIZATION SERVICE AND CUSTOMS SERVICE)

DECEMBER 18, 1974.—Committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

Mr. HOLIFIELD, from the Committee on Government Operations, submitted the following

TWENTY-FIFTH REPORT

BASED ON A STUDY BY THE LEGISLATION AND MILITARY OPERATIONS SUBCOMMITTEE

On December 12, 1974, the Committee on Government Operations approved and adopted a report entitled "Law Enforcement on the Southwest Border (Problems of Coordination Between Immigration and Naturalization Service and Customs Service)." The chairman was directed to transmit a copy to the Speaker of the House.

I. OMB BORDER PLAN

This report is concerned with law enforcement on the southwestern (Mexican) border of the United States, particularly as it involves the functions and responsibilities of the Immigration and Naturalization Service (INS) of the Justice Department and the U.S. Customs Service of the Treasury Department.

The INS maintains the U.S. border patrol, whose primary mission is to prevent the illegal entry of persons into the United States or to apprehend and return illegal entrants. The Customs Service, from a law enforcement standpoint, has the primary mission of preventing the carriage of contraband goods into the United States and of detecting and apprehending smugglers.

Reorganization Plan No. 2 of 1973,[1] which became effective on July 1 of that year, established the Drug Enforcement Administration (DEA) in the Department of Justice by consolidating several units in the Department concerned with drug abuse control and acquiring from the Customs Service approximately 500 agents engaged in drug investigative activities. Additionally, 200 support personnel positions and numerous items of equipment were transferred to DEA from the Customs Service.[2]

In regrouping its forces after the loss of investigative personnel caused by the reorganization plan, the Customs Service decided to deploy a uniformed force of customs patrol officers (CPO's) along the Mexican border. The rationale for this deployment, as explained to an Appropriations subcommittee in November 1973, was to shore up depleted resources for interdicting contraband (including drugs).[3]

During several periods in the past, the Customs Service had a uniformed patrol force along the Mexican border but had discontinued it in 1948.[4] Its reappearance in 1973 caused much consternation and concern in the area. There were reports of controversy and friction between customs patrol officers and other Federal, State, and local law enforcement agencies. Several Members of Congress requested the Office of Management and Budget (OMB) to study and assess the situation in the interest of eliminating unnecessary duplication and effecting better coordination.[5]

The OMB promised to undertake such a study, which it commenced in December 1973. The competing Services were asked to submit analyses and recommendations for more effective arrangements in border law enforcement, and OMB representatives were dispatched to the Southwest to study the problems in the field.

AGENCIES' RECOMMENDATIONS

In the course of the OMB review, which stretched over 6 months, various alternatives were examined and discussed. The analysis prepared by the INS and presented by the Department of Justice offered a series of recommendations for improving law enforcement and security along the border.[6] A key element was that the INS border patrol be designated the "lead agency" for all land patrol operations against illegal movements across the land borders of the United States between ports of entry. This was the Department's answer to the problem, which it described as "serious," of overlapping operations between the reactivated customs patrol and the INS border patrol.

Under the lead-agency concept, the INS border patrol would have the "primary mission responsibility" for land patrol operations between the borders, and other agencies also would have appropriate lead-agency assignments. These would be formalized in an agreement, which would identify the specific lead-agency assignments for each enforcement function and area, and delineate the working relationships among the agencies. The Department of Justice proposal recognized that customs patrol officers had a legitimate role in the border area. Overlap and conflict would be reduced or prevented by close coordination exercised through the INS border patrol sector chiefs.

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[1] 84 Stat. 1091.

[2] For details on transfers of personnel and equipment, see "Supplemental Appropriations Bill, 1974," hearings before subcommittees of the House Committee on Appropriations, 93d Cong., 1st sess., November 1973, pt. 1, pp. 944 ff. (hereafter referred to as supplemental appropriations hearings).

[3] Supplemental appropriations hearings, p. 940.

[4] See testimony of Vernon D. Acree, Commissioner of Customs, "Law Enforcement on the Southwest Border," hearings before a subcommittee of the House Committee on Government Operations, 93d Cong., 2d sess., July–August 1974, p. 109 (hereafter referred to as hearings).

[5] See hearings, app. 1, pp. 221–225.

[6] "A Secure Border: An Analysis of Issues Affecting the U.S. Department of Justice," Mar. 4, 1974, a paper and attached statistical data submitted to the OMB.

The analysis prepared by the Customs Service and presented by the Department of the Treasury proposed that the Customs Service be designated as the lead agency for border interdiction of contraband.[7] It would maintain customs inspectors at ports of entry and customs patrol officers between ports as a tactical interdiction force pointed at high-risk areas.

The Customs Service took the position that the INS border patrol was not equipped for contraband interdiction; its capabilities were largely confined to control of alien traffic. To prevent the overlap, competition, and potential friction between co-located patrol forces, the Customs Service proposed that it have border area jurisdiction, and that the INS patrol officers be withdrawn from the border and stationed at interior points. The rationale for realining the INS border patrol, as developed by the Customs Service, was that trying to stop aliens simply by patrolling the borders was not the most effective use of manpower. The border patrol would do better to deploy its forces at roadblocks and interior checkpoints along existing road systems, where illegal aliens have to travel in the search for jobs. In Customs' view, the INS border patrol, by maintaining road and ranch checks, could concentrate on the biggest payoff potential—identifying and intercepting job-hunting illegal aliens.[8]

OMB RESOLUTION OF ISSUES

The OMB, for its part, concluded that "a long-term solution is needed to resolve the problems of enforcement duplication and competition along the Mexican border."[9] The "management strategy" it proposed was the "single agency" approach. The INS border patrol would be responsible for routinely patrolling the land borders between ports. The customs patrol would be deployed to ports of entry to strengthen security and enforcement.

The OMB maintained that this move would not reduce the key role of Customs in Federal drug enforcement, since "the greatest threat exists from hard narcotics smuggling" at ports of entry. (For the most part, heroin is smuggled through ports of entry and marihuana through illegal border crossings.)

Although the OMB plan did not spell out the details for single-agency management, it appeared that the INS border patrol would have more responsibility under the OMB single-agency concept than under the "lead agency" responsibilities proposed in the Department of Justice analysis. The lead-agency concept contemplated that the INS border patrol would more or less supervise and coordinate the activities of the customs patrol officers along the border with those of the INS border patrol. In the OMB plan, the customs patrol officers were to be physically withdrawn from the border, and the INS border patrol was to have, as a primary mission, the interdiction of both goods and people. Customs agents could enter the border areas in the course of particular investigations, but a uniformed customs patrol force for routine patrols would not be maintained.

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[7] The Treasury submittals to the OMB, prepared by the Customs Service, were made in a series of papers under different dates. These were as follows: "A Balanced Program To Combat Smuggling and Integrate Customs Enforcement Efforts," Nov. 27, 1973; "Between the Ports Border Interdiction Capability Study," Jan. 9, 1974; "Strategy for Border Law Enforcement Operations (Principal Data Requirements)," Jan. 14, 1974; "OMB Land Border Enforcement Study," Jan. 21, 1974; "A Summary Strategy for Border Law Enforcement Operations," Feb. 6, 1974; "An Assessment of Alternative Strategies for Mexican Border Enforcement," Mar. 26, 1974; "A Study of the Impact of Marihuana Smuggling," May 1974.

[8] The U.S. Customs Service, "A Summary Strategy for Border Law Enforcement Operations," Feb. 6, 1974, pp. 4–5.

[9] The OMB position is stated in identical letters, dated June 5, 1974, to the Attorney General and the Secretary of the Treasury. For text see hearings, pp. 314–315. See also p. 12 infra.

Whereas the OMB plan contemplated that the U.S. border patrol would be "the single agency for routine patrol of the land border between ports," the single-agency assignments to the Customs Service were described and qualified in these respects:

1. The Customs Service would become "the lead agency" for border air interdiction and routine air enforcement (the DEA also was a candidate for this role, although Customs finally was chosen). The "lead agency" rather than the "single agency" approach was favored here apparently because the INS border patrol and the DEA, as well as the Customs Service, would require their own air support in execution of their respective missions. Presumably it was not practicable to consolidate all of these air functions in one service. However, the Customs Service, in its "lead agency" role, would maintain contact with the general aviation community and give some air assistance to other Federal agencies in border investigations.

2. The Customs Service would "implement a test of single-agency management of Mexican border ports." Under this "test" concept, it would have management responsibility for primary inspections, port security, and port administration.

Previously, the General Accounting Office had recommended single-agency management at the ports of entry, involving the consolidation of port inspection functions by all participating agencies.[10] The OMB had proposed a partial arrangement of this nature in section 2 of Reorganization Plan No. 2 of 1973. That part sought the integration of inspection activities, concerning both goods and people, at ports of entry, and would have involved the transfer of approximately 900 agents from INS to the Customs Service.

When Reorganization Plan No. 2 of 1973 was before the subcommittee and full committee for consideration, there was considerable opposition to section 2 by union representatives of the INS employees. Their concern, shared by many Members of Congress, was that removal of so large a complement of INS employees would adversely affect morale and make even more difficult the efforts of that understaffed agency to cope with illegal alien traffic.[11]

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[10] "A Single Agency Needed To Manage Port-of-Entry Inspections—Particularly at U.S. Airports," report to the Congress by the Comptroller General of the United States (B-114898), May 30, 1973. The report identified the following four Federal agencies as engaged in inspecting entrants to the United States: (1) Public Health Service, Department of Health, Education, and Welfare; (2) Immigration and Naturalization Service, Department of Justice; (3) Bureau of Customs, Department of the Treasury; and (4) Animal and Plant Health Inspection Service, Department of Agriculture.

[11] See, for example, testimony of Clyde M. Webber, national president, American Federation of Government Employees, "Reorganization Plan No. 2 of 1973 (Drug Enforcement Administration)," hearings before a subcommittee of the House Committee on Government Operations, 93d Cong., 1st sess., April–May 1973, pp. 80 ff.

Although a majority of the committee opposed the reorganization plan,[12] it was accepted by the House, with the understanding that the second part would be repealed by separate legislation.[13] Subsequently, the repeal of section 2 was effected by Public Law 93–253.[14] In the meantime, assurances were sought from the Office of Management and Budget, and certain commitments were made, to improve the staffing of the INS to deal with the increasingly serious illegal alien problem.[15]

The OMB "test" program, which would cover all 22 ports of entry along the southwestern border, moved in the same direction as the repealed part of Reorganization Plan No. 2 of 1973, although apparently it was not as far-reaching, and no details were provided. Section 2 of the reorganization plan contemplated a merger of port inspection functions concerning both goods and people. The test program was pointed toward placing the overall management of port inspection functions in Customs, with initial or first-line inspection of both goods and people to be performed as a single operation by either a customs or immigration officer; and secondary or more specialized followup inspections, to be performed separately, if found necessary, by the respective customs and immigration officers. To assess the results of the test plan, the OMB proposed that an interagency evaluation, under its leadership, be made within 6 months, and again within 1 year.

The OMB plan was not written up in a formal report document. It was conveyed in the aforementioned identical letters of June 5, 1974, to the Attorney General and the Secretary of the Treasury.[16] As the contents of the letters became known, complaints were heard from Customs sources and from certain Members of Congress that, in ordering a redeployment of the customs patrol, the OMB Director was acting contrary to the reorganization plan and without congressional sanction.

Opposition to OMB Plan

Those who opposed the OMB action pointed out that section 1 of Reorganization Plan No. 2 of 1973 contains language which retains in the Treasury Department (Customs) border functions relating to the drug traffic. Another proviso in the plan preserves the Treasury Department's authority "with respect to contraband other than illicit narcotics, dangerous drugs, and marihuana." And, since contraband and drugs are seized along the borders between ports as well as at border ports of entry, the contention was that the OMB had no authority to prevent Customs from maintaining a patrol force along the land borders.

Questions also were raised about the legality and propriety of instituting a "test" program for single-agency management of inspection activities at ports of entry, considering that the part of Reorganization Plan No. 2 of 1973 related to this subject had been repealed. Although the Congress, in effecting the partial repeal, was more concerned with preventing the transfer of 900 persons from INS to Customs than with the efficacy of single management of inspection activities at ports of entry, nevertheless the OMB plan did not seem to comport with the spirit of the repeal action.

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[12] House Report No. 93-228, May 23, 1973.

[13] Congressional Record (daily ed.), June 7, 1973, pp. H4435, H4437.

[14] Approved Mar. 16, 1974, 88 Stat. 50.

[15] See House Report No. 93-363, June 21, 1973, appendix, pp. 8-9.

[16] See footnote 9.

The controversy that developed led to requests that the Committee on Government Operations review the matter in public hearings. Roy L. Ash, the OMB Director, made it known that he would welcome hearings by the committee. Chairman Holifield advised Mr. Ash, by letter of June 18, 1974, that the Subcommittee on Legislation and Military Operations intended to review developments since Reorganization Plan No. 2 of 1973 took effect, and particularly to air the controversy about the overlapping patrol functions.[17] Mr. Ash announced that the decisions to redeploy the custom patrol and other proposed actions would be held in abeyance, pending the hearings (and presumably a report) by the Committee on Government Operations.

CONTRASTING LEGAL OPINIONS

Preparatory to the hearings, Chairman Holifield, by letter of June 27, 1974, requested the Department of Justice to submit a statement analyzing the legal issues involved in the OMB plan. The Department, speaking through Assistant Attorney General Robert G. Dixon, Jr., Office of Legal Counsel, stated in a letter of July 3, 1974, that the "directives are legal and can be implemented under existing law." [18]

In elaborating this position, Mr. Dixon said that the President was acting through the OMB Director to require the coordination of overlapping functions within the two concerned agencies in the interest of avoiding duplication and possible conflict. The President, by law (31 U.S.C. 18a), was responsible for evaluating and developing improved plans for the organization, coordination, and management of the executive branch, and, in effect, was directing the Attorney General and the Secretary of the Treasury to take action which was clearly within their statutory charters. Both had statutory authority to utilize each other's personnel in enforcement of the immigration and customs laws. As viewed by the Office of Legal Counsel, none of the actions under the "directives" involved a transfer of statutory functions or funds and personnel.

In the meantime, Chairman Steed of the Subcommittee on Treasury, Postal Service and General Government of the Committee on Appropriations, requested the Comptroller General, by letter of June 17, 1974, to review the circumstances of the OMB plan and to submit a report on the legal issues. Chairman Steed was concerned particularly with that part of the OMB plan which involved redeployment of customs patrol officers to ports of entry and gave the INS border patrol responsibility for routine border patrols. He referred to these proposed actions as a "transfer [of] certain statutory functions," in contrast to the position taken by the Department of Justice that no funcions were to be transferred.

Chairman Steed's view of the matter was reflected in the Treasury, Postal Service, and General Government Appropriation bill for 1975 (H.R. 15544), which contained language to bar expenditures for the transfer of any Customs functions or personnel to any other agency.

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[17] For text of letter see hearings, p. 314.

[18] For text of letter see hearings, pp. 34–35.

One section of the bill, as reported from the Committee on Appropriations, stated:

> None of the funds available under this Act shall be available for administrative expenses in connection with the transfer of any functions, personnel, facilities, equipment, or funds out of the United States Customs Service unless such transfers have been specifically authorized by the Congress.

This language was supplemented by Representative Addabbo's floor amendment, which read:

> None of the funds available under this Act shall be available for administrative expenses for the purpose of transferring the border control activities of the Bureau of Customs to any other agency of the Federal Government.

The above-quoted paragraphs were retained in the appropriation bill as enacted (Public Law 93–381), becoming respectively sections 611 and 612.[19]

Literally, this language did not prohibit the redeployment of the customs patrol force to ports of entry, as contemplated in the OMB plan, but the intent of the sponsors of the amendment was made clear in the floor debate. They wanted no such action taken.

The Comptroller General did not submit his reply until October 11, 1974.[20] In substance, it drew two conclusions:

1. If, in fact and law, a transfer of statutory functions from one agency to another were entailed by the OMB plan, then it would be clearly illegal by administrative action alone; legislative authorization would be required. To determine what constitutes a transfer of statutory functions involves complex issues of fact and law. After a lengthy analysis, the Comptroller General was unable to state unequivocally that such transfers were involved, although he saw in the OMB plan "a strong potential that it is a transfer of functions beyond the permissible scope of administrative action."

2. Even if no transfer of statutory functions were involved, the OMB plan would be proscribed by section 612 of the Appropriation Act (Addabbo amendment). Whereas section 611 would bar a "transfer of any functions" without specific legislative authorization, section 612 barred a transfer of "border control activities of the Bureau of Customs to any other agency of the Federal Government." This language, and the supporting legislative history, the Comptroller General concluded, made it clear that the redeployment of customs patrol officers together with assumption of their duties by INS border patrol officers were not to take place. He pointed out that the prohibition would be effective only until the close of fiscal year 1975, when the appropriation authority under that particular act would terminate.

Subcommittee Hearings

The hearings by the Subcommittee on Legislation and Military Operations were held on July 10, 11, 16; and August 14, 1974. Testimony was taken from interested Members of Congress, the Government departments and agencies directly involved, and spokesmen for employee groups of the Immigration and Naturalization Service and the Customs Service.

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[19] Approved Aug. 21, 1974. 88 Stat. 613.

[20] Letter from the Comptroller General to Hon. Tom Steed, Chairman, Subcommittee on Treasury, Postal Services, and General Government, House Committee on Appropriations, Oct. 11, 1974 (B-114898).

Members of the Congress who appeared before the subcommittee were Victor V. Veysey and Richard C. White. Both recognized the need for coordination of border policing operations, found weaknesses in the OMB approach, and recommended congressional action. Representative Jack Brooks presented a written statement declaring that the OMB plan appears to involve an unauthorized transfer of functions and constitutes a de facto reorganization.

Mr. Ash, OMB Director, accompanied by several staff assistants, outlined the OMB plan for management changes and explained the rationale. The witnesses from the Department of Justice were Laurence H. Silberman, Deputy Attorney General; Leonard F. Chapman, Jr., Commissioner, Immigration and Naturalization Service; and John R. Bartels, Jr., Administrator, Drug Enforcement Administration. The Department of the Treasury was represented by Edward C. Schmults, Under Secretary of the Treasury; and by Vernon D. Acree, Commissioner of Customs.

Clyde M. Webber, national president, American Federation of Government Employees, headed a group of witnesses representing employee organizations in the INS. John J. Murphy, president, National Customs Service Association, and associates, spoke for employees in the Customs Service. James J. Orlow, president, Association of Immigration and Nationality Lawyers, also appeared.

The testimony of the Government witnesses from the two departments generally favored the OMB plan, accepting it as an official pronouncement which must be obeyed but also suggesting that the Secretary of the Treasury had concurred in and adopted it as his own.

Justice and INS witnesses were pleased that the customs patrol was to be removed from the southwestern border, and that the INS border patrol was to remain as the single agency in charge of patrol functions. They accepted as "reasonable" the objectives of the proposed "test" program (which the Department of Justice had not recommended), whereby the immigration inspectors at ports of entry would be subject to supervision or direction by the Customs Service as single-agency manager.[21]

Treasury and Customs witnesses took the "good soldier" part with less enthusiasm. They were still feeling the effects of Reorganization Plan No. 2 of 1973. Customs had lost more than 500 agents to the new DEA, and with the repeal of part 2 of the plan, Customs failed to gain some 900 new personnel from INS for single management of inspection activities at ports of entry.

One may infer that the proposed reinstatement, on a "test" basis, of single-agency management at ports of entry was not enough to make amends for the removal of Customs' recently reactivated patrol force from the southwestern border. The Customs Service, in the aftermath of Reorganization Plan No. 2 of 1973, had developed some very positive ideas about staffing the border areas for drug and other contraband interdiction, and it accepted with great reluctance this turnabout required by the OMB plan.[22]

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[21] Hearings, pp. 78–79.

As for the legality of the OMB plan, Mr. Silberman, the Deputy Attorney General, affirmed the position expressed earlier by Mr. Dixon, the Assistant Attorney General, Office of Legal Counsel; he and Mr. Schmults, the Under Secretary of the Treasury, both agreed that the OMB plan was legal and valid as an administrative action, consistent with the President's authority and with the statutory responsibilities of the departments concerned. They also agreed that the plan was workable, and that both agencies would cooperate in making it work.[23]

The testimony of the Government witnesses in this regard was in sharp contrast to that of the witnesses for the labor groups in the two competing agencies. The latter were strongly opposed to the OMB plan both on policy and legal grounds. They viewed the OMB plan as contrary to Reorganization Plan No. 2 of 1973 and as lacking congressional authorization.[24]

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[22] Hearings, pp. 104–105, 112–113.

[23] Hearings, pp. 77–79, 104–105. In a subsequent communication to the Subcommittee on Legislation and Military Operations, Under Secretary Schmults observed that the manner in which the proposal was implemented would be "critical in any determination of its legality."

[24] Hearings, pp. 170–215.

II. LEGAL ISSUES

Role of President

The Department of Justice, speaking through Mr. Silberman, represented that the OMB plan had Presidential blessing and put the question of the President's authority in fairly simple terms. Here were two Cabinet officers, the Attorney General and the Secretary of the Treasury, with overlapping areas of responsibilities under their statutory charters. The President, presiding over these Cabinet officers, can direct them "to coordinate their efforts to maximize the efficiency of their operations."[25] To do so did not require, in this case, any transfer of personnel, funds, or equipment between the two agencies. According to the Dixon letter, section 104 of the Budget and Accounting Procedures Act[26] authorizes, and indeed mandates, the President to look into problems of agency coordination. Consequently, the OMB plan, as viewed by the Department of Justice, is legally valid and proper.

The committee recognizes that under the Constitution, as well as various statutes, the President has broad executive management responsibilities. As the Chief Executive of the United States, the President has the constitutional duty to take care that the laws be faithfully executed.[27] He has the authority to appoint and remove Cabinet officers. As an incident thereof, he may control and direct the exercise of any discretionary action by an executive department—at least in the absence of any constitutionally valid statutory restriction on the President.[28] A statute need not refer to the President in terms or expressly invest authority in him. It is implicit that he can direct the actions of his subordinates,[29] and Presidential regulations interpreting statutes have the force and effect of law.[30]

It follows, therefore, that if it is not contrary to the express provisions of a statute, the President may supervise the management of executive departments and tell department heads how to use their resources and manpower. This is not a license for the President to bend departmental resources and actions toward unethical, immoral, or politically self-serving ends. The Chief Executive's supervisory responsibilities properly are pointed toward more effective management of the executive branch within the resources made available by the Congress and in consonance with the laws enacted by the Congress.

We are certain that the President, in keeping with this responsibility, may, for example, direct the redeployment of customs patrol officers from one area to another where he thinks that they may be more useful. Such action is compatible with the President's constitutional role as Chief Executive and his statutory obligation to seek improved coordination and management of the executive branch. However, he does not have the authority, unless specifically conferred by the Congress, to transfer functions or agencies, in whole or in part, from one department or agency to another.[31]

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[25] Hearings, p. 36.

[26] 64 Stat. 834, 31 U.S.C. 18a.

[27] Constitution, art. II, sec. 3.

[28] See *Constitution of the United States of America, Analysis and Interpretation*, U.S. Government Printing Office (Sen. Doc. 92–82), 1973, pp. 552–5.

[29] *Congress Construction Corp.* v. *United States*, 314 F. 2d 527, 531 (1963).

[30] *Constitution * * **, *supra* note 28, at 555.

AUTHORITY OF OMB

It is noteworthy that it was the Director of OMB, not the President, who gave the word to the heads of the two departments that certain actions were to be taken. The Department of Justice represented this action as being legally in the President's name. Mr. Silberman said the OMB Director "is simply acting as the agent of the President." [32] Mr. Dixon's letter to Chairman Holifield stated, in part: [33]

> The President, through the Director of the Office of Management and Budget, has directed the Attorney General and the Secretary of the Treasury to coordinate their related and somewhat overlapping functions on the Southwest border in a more efficient manner and to exercise their statutory functions in such a way as to avoid duplication of efforts.

The wording, "through the Director of the Office of Management and Budget," sounds pro forma. It may have been used to bring the recommended action within the confines of section 104 of the Budget and Accounting Procedures Act, which uses the same phraseology, "through the Director of the Office of Management and Budget," and thereby to give it more color of statutory authority.[34] However, there is nothing on the record to establish or indicate that the President in fact endorsed or issued the order, or was even aware of it.

Any legal force or effect of the OMB plan in directing the management operations of executive agencies, and specifically to establish "single-agency" responsibility or to direct redeployment of customs patrol officers, rests on the unsupported presumption that OMB was acting as the alter ego of the President and merely communicating his decision. The OMB has no legal authority, either in statute or by delegation from the President, to act in a general directive capacity.[35]

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[31] Under the Reorganization Act of 1949, as amended (5 U.S.C. 901-913), now lapsed, the President was empowered to transfer functions from one agency to another, and to make other reorganizations, by preparing reorganization plans, which would take effect within 60 days after transmittal to the Congress if not rejected by a disapproving resolution in either the House or the Senate. In wartime, the Congress has empowered the President to effect such reorganizations without referral of specific plans to the Congress. See, for example, the First War Powers Act, 1941, 55 Stat. 838, now repealed (50 U.S.C. app. 601 note).

[32] Hearings, p. 43.

[33] Hearings, p. 34.

[34] Actually, that section of the act (31 U.S.C. 18a) relied on by administration witnesses gives the President no operative authority to promulgate "plans for the organization, coordination, and management of the executive branch of the Government." The preceding section (31 U.S.C. 18) authorizes the OMB, when directed by the President, to make detailed studies of the departments and establishments to enable the President to determine what changes should be made in the interest of economy and efficiency. The results of such OMB studies are to be embodied in reports to the President, "who may transmit to Congress such report or reports or any part thereof with his recommendations on the matters covered thereby." Clearly, the implication is that legislation would be required to give effect to the results of the OMB studies.

[35] Under 31 U.S.C. 18, 18a, the basic statutory authority of OMB with respect to improving the agencies and their organization, coordination and management is limited to studies and development of plans. Executive Order No. 11541 of July 1, 1970, redelegated to OMB only existing functions transferred from the Bureau of the Budget to the President by

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The committee calls attention in this context to the imprecise and oblique wording of the directive features of the OMB Director's identical letters of June 5, 1974, to the Attorney General and the Secretary of the Treasury. After expressing the view that "a long-term solution is needed to resolve the problems of enforcement duplication and competition along the Mexican border," the letters said:

> * * * It is our conclusion that where practical, *a single agency should be accountable for initial, routine enforcement* for each element of border enforcement: ports, between ports, and air. However, it should be noted that this strategy accommodates the policy of investigative operations having precedence over routine enforcement as necessary to the successful conduct of a case.
>
> Therefore, we have concluded that the U.S. Border Patrol *should be designated the single agency* for routine patrol of the land border between ports. This is essentially a return to the status quo before deployment of the Customs Patrol in October 1973. *The Customs Patrol should return to previous deployment* at ports of entry to strengthen security and enforcement at ports. It should be recognized this decision in no way reduces the key role of Customs in the Federal drug enforcement effort. *It is, however, intended to concentrate* Customs resources at ports, where we believe the greatest threat exists from hard narcotics smuggling. [Italic supplied.]

The letters went on to list a number of key implementing steps which should be taken by September 30, 1974, to give effect to the OMB plan. They said operating agreements between the agencies concerned were needed for the air support arrangements, for the allocation of operational responsibilities and procedures for single-agency management at Mexican border ports, and for exchange of border intelligence and communications services on aliens, contraband, and drugs.

The language in the quoted portion of the OMB letters, it will be noted, was couched in terms of conclusions and actions that "should" be taken. It was more a series of recommendations than of commands, although the Dixon letter to Chairman Holifield referred to them as "directives."[36] At the hearings, the OMB Director, the Under Secretary of the Treasurer, and the Administrator of DEA variously characterized the OMB plan as a "recommendation," "proposal," or

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Reorganization Plan No. 2 of 1970. In certain discrete areas, the OMB Director is vested with directive authority by specific statutes. Thus, the OMB Director is required or authorized by various statutes to perform functions in behalf of the President or in his own capacity, affecting Government agencies in such matters as funds, personnel, and property transfers, information and reports, and employee travel and subsistence.

A law relating to procurement and management of automatic data processing equipment makes the authority conferred upon the General Services Administrator and the Secretary of Commerce "subject to direction by the President and to fiscal and policy control exercised by the Office of Management and Budget." 40 U.S.C. 759(g).

Public Law No. 93-400 (88 Stat. 796), creating the Office of Federal Procurement Policy as a component of the OMB, authorizes the Administrator to prescribe procurement policies, regulations, procedures, and forms, which are to be followed by the executive agencies in their procurement operations. Such prescriptions would have the force and effect of law.

[36] Hearings, p. 34.

"plan." [37] The Commissioner of INS consistently referred to it as a "decision." [38] Congressman White variously called it a "ruling," "order," "directive," or "edict." [39] The Commissioner of Customs labeled it a "concept." [40] This report uses the term "plan" for convenient reference.

To say that the OMB does not have directive authority over the executive agencies is not to suggest that the OMB lacks leverage as the President's budget-making and legislation-coordinating agency, or is not otherwise responsible for directing and supervising agency actions as prescribed by law in specific areas. In these capacities, the OMB wields enormous policy and influence over agency policies and actions. We are mindful that this power can be used to good effect; or abused if it is pushed to the point of robbing agency heads of discretion and judgment in administration, and leaving them merely the trappings of authority. To put it another way, agencies can be clubbed into submission to a particular OMB-favored policy by inordinate use of OMB's budget power; and it is not a satisfactory course for an agency head to represent to the Congress that the formal decision was made or adopted by him and is therefore legal and proper.

It is not suggested that in this instance the two department heads were acting against their will, although the OMB plan did not accord fully with the preferences of either; and less so in the case of the Department of the Treasury. Nevertheless, the Treasury reversal of position in accepting the OMB recommendation to redeploy customs patrol forces to border ports of entry illustrates the problem. With top-level concurrence in Treasury, the Customs Service had maintained all along that the INS border patrol should not take over the contraband interdiction role along the border, and indeed could not take it over without sanction by the Congress.[41] Now the Treasury Department was prepared, in effect, to reverse itself and accommodate the OMB plan.

The Under Secretary of the Treasury acknowledged, in response to a question, "I do not believe OMB as an agency has authority to direct the Treasury to do that." [42] The Under Secretary justified it on the basis that the Secretary had adopted the OMB plan and was prepared to carry it out on his own initiative. If this were so, the question whether OMB did or did not have authority to order the action would be made moot. Clearly, the Secretary of the Treasury has legal authority to redeploy officers of his department and to cross-designate border patrolmen as customs officers. The question then would become one not of law but of administrative policy as to whether the Secretary is exercising sound management judgment. However, the legal issues as to the validity of the OMB plan cannot be avoided simply by pointing to subsequent ratification by the agencies.

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[37] Hearings, pp. 4, 6, 105, 141, 145, 149.

[38] Hearings, pp. 37, 41, 44, 81.

[39] Hearings, pp. 53, 54, 57, 61, 76, 77.

[40] Hearings, p. 105.

[41] In the Treasury submittals to OMB, the Customs Service took the position that assumption by the INS border patrol of responsibility for interdiction of contraband on the land borders would require "another reorganization plan or appropriate statutory changes." U.S. Customs Service, "An Assessment of Alternative Strategies for Mexican Border Enforcement," Mar. 26, 1974, pp. 6, 7, 10.

[42] Hearings, p. 143.

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TRANSFER OF FUNCTIONS?

The question of legal authority for the OMB plan finally hinges on whether or not it involves a transfer of functions from one department or agency to another, or an abolition of functions of an agency."[43] It is generally understood and agreed that neither the President nor the OMB, nor departments individually or in concert, could order such action administratively. Action by Congress would be required. Since the reorganization authority of the Reorganization Act of 1949, as amended, has lapsed, the congressional action would have to be in the form of a legislative enactment.

The Comptroller General, as noted above, wrestled with the question of "transfer of functions" and was unable to make a clear-cut finding because of the tangled legal and factual issues involved. He had no doubt that the Customs Service, under its statutory authority, could conduct patrols along the land borders between ports of entry, and that, by the same token, this force could be redeployed by administrative order to ports of entry if that would effect a better use of resources. However, he was troubled by the fact that, apart from Customs' basic responsibility for contraband enforcement, the background of the Supplemental Appropriations Act, 1974, "in effect, indicates congressional recognition and confirmation of the existence of a Customs function along the border and of the need for such a [customs] patrol." Also, in his view, Reorganization Plan No. 2 "mandates a continued function on the part of Customs for enforcement along the land borders." He found it "difficult to see what land function would be left in Customs upon withdrawal of the patrol in toto."

The Comptroller General was troubled also by that aspect of the "single agency" assignment to the INS border patrol which entailed, under the OMB plan, reliance upon the cross-designation of border patrolmen as customs officers. He recognized that such cross-designations are permitted under the law[44] and sanctioned by the courts.[45] It was the existence of this authority and its exercise which satisfied the advocates of the OMB plan, including the Department of Justice, that the INS border patrol could perform both its own mission with respect to illegal alien entry and Customs' mission with respect to contraband.[46]

In the Comptroller General's view, however, the exercise of Customs' authority by INS agents must be considered as limited to actions incident to their own primary mission of dealing with illegal alien traffic. He did not construe the statutory authority for cross-designation which empowered the Secretary of the Treasury to designate any agent or person to perform the duties of a customs officer, as being "a vehicle for the delegation of ongoing and routine performance of customs functions to officers of another agency." The Comptroller General believed it was asking too much to treat as incidental the activities of more than 200 full-time customs patrol officers who were to be reassigned.

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[43] Cf. 5 U.S.C. 903(a)(2).

[44] 19 U.S.C. 1401(i).

[45] *United States* v. *Byrd*, 483 F.2d 1196, 1198 (5th Cir. 1973); *United States* v. *Thompson*, 475 F.2d 1359, 1362 (5th Cir. 1973); *United States* v. *McDaniel*, 463 F.2d 129 (5th Cir. 1972), *cert. denied*, 413 U.S. 919 (prelim. print, 1973); *United States* v. *Wright*, 476 F.2d 1027, 1031 (5th Cir. 1973).

[46] Hearings, pp. 8, 84, 143.

The Comptroller General also thought that cross-designation of INS agents as customs officers "necessarily requires that Customs retain some responsibility for, and control of, their activities * * * As a minimum, INS agents would have to be subject to all regulations, instructions, and other requirements applicable to customs officers."

The committee is inclined to agree with the Comptroller General that the OMB plan "presents a strong potential that it is a transfer of functions beyond the permissible scope of administrative action," and that the cross-designation authority was a questionable basis for accomplishment of the OMB plan. The authority to cross-designate customs officers plainly was intended as an adjunct to performance by the Customs Service of its own responsibilities. The idea was to add muscle, not lop off a limb. To use cross-designation therefore to supersede rather than merely supplement (in a given area) the primary role of Customs in contraband interdiction, and to make contraband control a new primary mission of the border patrol, stretches the cross-designation statute too far.

Certainly the lawyers among the administration witnesses were not prepared to say that the cross-designation authority may be used to take over entirely the Customs' function to interdict contraband, or in the words of the Under Secretary, to "walk away from its statutory responsibilities." [47] But they insisted that the proper limits have not been exceeded by the OMB plan for eviction of customs patrol officers from the Mexican border. The difference, as seen by the Under Secretary, was that between ports. Customs still would retain a role in contraband investigation and air interdiction.[48]

In contrast to the testimony of the Government witnesses, Mr. Murphy, speaking for the Customs employee association, was strongly of the opinion that border patrolmen could not be authorized by cross-designation to exercise all the legal authority of customs officers. His rationale was that the Secretary of the Treasury was required to provide supervision of Customs border search authority, and the OMB plan required the Secretary to delegate search authority without exercising supervision.[48a] He argued that in the historical framework, cross-designations were made individually, on a case-by-case basis, whereas in the OMB plan "all INS border patrol agents will be so designated." [49]

The Customs Service recognizes that it has extraordinary powers of border search and seizure, and it is particularly sensitive to the use of such authority by officers of other agencies who may not be sufficiently trained or versed in Customs' practices and traditions. It fears that abuses of Customs-conferred authority may cause it to be withdrawn by the Congress, to the serious detriment of the contraband control mission.[50]

The Customs' response to a request from the Drug Enforcement Administration for cross-designating a number of its agents as customs officers illustrates the point. The Customs Service yielded reluctantly to the request, and only after stipulating the terms and conditions. The memorandum of understanding, signed by the Commissioner of Customs and the DEA Administrator, is prefaced with this statement: "There may be instances where it may be necessary on occasion for certain employees of the DEA to be able to perform certain customs duties." As spelled out in the agreement, DEA agents are to use their designation only when a regular customs officer requests such use. The Customs Service must be notified in advance, if possible, when a designation is to be used by a DEA agent. Reports in writing must be submitted to the Customs Service on the results of any designation used. If customs officer designations are abused, they may be revoked.[51]

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[47] Hearings, p. 144.

[48] Hearings, p. 144.

[48a] Hearings, p. 209.

[49] Hearings, p. 212.

[50] Hearings, pp. 142, 213. For a list of the agencies having employees designated as customs officers, see hearings, p. 142.

The standard form now used by the Customs Service for cross-designation carries the legend: "In performing the duties of a customs officer, you will be subject to all guidelines, directives and instructions of the U.S. Customs Service." An earlier version of the form, developed to standardize cross-designation procedures and practices, carried stronger, more explicit wording on supervision: "In performing the duties of a customs officer, you will be acting under the overall direction and control of an appropriate supervisory customs officer and you will be subject to all directives and instructions of the U.S. Customs Service." When the INS objected to having its cross-designated officers made subject to direction and control of Customs supervisory personnel, the Customs Service backed down a step, eliminating the specific reference to Customs supervisory personnel but retaining the general reference to guidelines, directives, and instructions.[52]

What difference the OMB plan would make in supervisory relationships is not clear. Mr. Murphy was certain that under the plan, "the cross-designated border patrol agents will not be working under the supervision of customs personnel, or even with them at all."[53] The Chief Counsel of the Customs Service, in a legal opinion assessing the OMB plan, came to a similar conclusion, considering it likely that "the Secretary of the Treasury [would be required] to delegate to the INS border patrol officers the authority to perform the Customs border search authority without the required general supervision and control." In his view, this would amount to an abdication of statutory responsibilities and a violation of the Secretary's oath of office.[54] However, his opinion did not address what degree of supervision and control was "required," and whether making INS officers subject to Customs guidelines, directives, and regulations would be adequate for this purpose.

Commissioner Acree, in testimony before the subcommittee, also pointed to the uncertainties of the supervisory problem in the reverse situation; namely, if the Customs Service became the single-agency manager at ports of entry, as contemplated in the OMB plan. In his understanding, the arrangement presupposed that customs agents would supervise INS personnel. The effectiveness of such an arrangement, Commissioner Acree suggested, would depend on the nature of the operating agreement which would have to be made between the two services.[55]

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[51] The memorandum of understanding is included in the Treasury submittal to OMB: "OMB Land Border Enforcement Study," Jan. 21, 1974, pt. III.

[52] The documents and related exchange of correspondence between the Customs Service and the Immigration and Naturalization Service are contained in the Treasury submittal, "OMB Land Border Enforcement Study," Jan. 21, 1974, pt. III.

[53] Hearings, p. 212.

[54] The Chief Counsel's legal opinion was made available at the request of the subcommittee by the Commissioner of Customs.

Mr. Murphy stated before the subcommittee that the National Customs Service Association had "filed suit on July 29 in the district court to enjoin the implementation of the OMB directive, which we feel is clearlly ilegal." [56] This suit has been dismissed without prejudice. If that case is renewed and comes to trial, some more light may be shed on the legal status of cross-designation and whether the proposed use of this authority under the OMB plan amounts to a transfer of statutory functions.

The committee notes that the issue of cross-designation has come up specifically in Federal court cases where defendants have challenged the constitutionality of a contraband search and seizure by border patrol agents.[57] Typically, in such cases a person crosses the border into the United States in an automobile, which is searched for concealed illegal aliens. The border patrol agent asks the driver to open the trunk. The agent sees no alien but smells marihuana and finds some in a bag. Having been cross-designated a customs officer, the border patrol agent exercises his customs' authority, detains the driver, and seizes the marihuana..

Several Federal courts have recognized and upheld the "two-hat" role of the immigration officer.[58] If an immigration officer properly searching for illegal aliens comes upon illegal contraband, he can "don his other hat" and make the necessary search and seizure.

Judicial opinion on this issue is in a developing rather than a settled stage, particularly with respect to how far from the border and in what circumstanees an extraordinary "border or border-related" search can be constitutionally justified by reasonable suspicion, rather than probable cause, the latter being the customary standard applicable to inland searches under the fourth amendment.

Accordingly, the committee can understand the Customs' concern and preference for exercising close control and supervision over the use of border search authority, whether by its own agents or those of the border patrol or other agencies. At the same time, it should be noted that the border patrol has comparable "border or border-related" search authority to interdict aliens, and it may be expected therefore to be equally careful to guard against any abuse that might give rise to congressional concern and constraints.

Apart from serious doubt as to the adequacy of the cross-designation authority to carry out the OMB plan, it seems clear that if we place the OMB plan and the testimony in context, they speak the language of reorganization. To eliminate duplication, effect better coordination, hold a single agency accountable, assign and reassign responsibilities, abolish a significant part of an agency's function, are among the purposes sought.

The Deputy Attorney General professed to see a distinction between an "allocation of responsibility" and a "transfer of functions." [59] In commonsense terms, making contraband policing on the border a second "primary mission" of the INS border patrol and removing customs officers from routine patrol duties would seem the same as a "transfer of functions."[60] One gets involved in semantic problems, matters of judgment, and, as the Under Secretary of Treasury put it, questions of "critical implementation," the answers to which may fall short of complete achievement of the OMB objective and the best solution to the border difficulties. It was these qualitative and subjective aspects which made it difficult for the Comptroller General to say conclusively whether a transfer of functions was involved, although he was rather strongly inclined to that belief.

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[55] Hearings, p. 114.
[56] Hearings, p. 200.
[57] See cases cited in footnote 45.
[58] See particularly *United States* v. *McDaniel*, cited in footnote 45.
[59] Hearings, p. 32.

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[60] Commissioner Chapman of the INS made it clear in his testimony that, under the OMB plan, interdiction of contraband on the borders would become coequal with interdiction of illegal aliens, both constituting primary missions of the INS border patrol. Hearings, pp. 44, 82.

III. POLICY ISSUES

Apart from the legal issues, several of a policy nature are raised by the OMB plan. Was the OMB well advised to advance a plan which is strongly opposed by a segment of the Congress, which rests on rather tenuous legal grounds, which leaves unsettled so many issues, and which requires cooperation from an agency (Customs Service) unsympathetic to the whole idea?

THE SETTING

To understand the Customs Service reaction, from the top level down to the employees in the field, one must keep in mind the setting. The problem started with Reorganization Plan No. 2 of 1973. In many ways it was ill-starred. A majority of the committee, in reporting on the plan, observed that it was hastily formed, without adequate preparation.[61] The employee organizations involved were not fully consulted; and in consequence, awkward arrangements had to be made for concessions and comprises after the plan was submitted, including the enactment of legislation to repeal an important part of the plan.[62]

The Congress accepted the plan by not exercising its veto privilege under the Reorganization Act of 1949, as amended. Acceptance undoubtedly was due to a rather widespread recognition of the need to organize more effectively Federal agencies and resources for drug law enforcement, coupled with the understanding, explicitly set forth in the floor debate, that a controversial and (to many) an objectionable feature of the plan would be removed by subsequent legislation.[63]

As in most reorganizations of any significance, the results of Reorganization Plan No. 2 of 1973 were not all on the plus side; there were some harmful side effects. The positive aim was to establish the DEA as a new unified agency for drug law enforcement. The negative consequences were the disruption of established programs and relationships and the splitting of certain functions, to be reassigned according to the new allocation of responsibilities.

In this respect, the Customs Service suffered rather heavily. Under section 1 of the plan, it lost to the Department of Justice, for delegation to the DEA, its intelligence and investigative functions relating to the suppression of illicit traffic in narcotics, dangerous drugs, or marihuana. Along with this transfer of functions went 509 customs agents, about 200 support personnel, and an assortment of equipment, including aircraft, helicopters, boats, office furniture and supplies, vehicles, firearms, tape recorders, radios, cameras, and binoculars.[64]

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[61] H. Rept. No. 93-228, May 25, 1973, p. 2.
[62] See footnote 14.
[63] See footnote 13.
[64] See footnote 2.

The transfer of drug intelligence and investigative functions to DEA was a heavy blow to Customs, particularly because of the public prominence and congressional support given to drug abuse control efforts; but the transfer did not mean that Customs thereafter would be completely out of the drug law enforcement business. The reorganization plan stipulated that the Department of the Treasury (Customs) would retain and continue to perform its functions relating to drug searches and seizures at the borders and ports of entry. Any drugs seized or persons apprehended were to be turned over to the Attorney General's jurisdiction.

The divorcement of drug intelligence and investigative functions from those of drug search and seizure was viewed by the Customs Service as prejudicial to its concept of an integrated law enforcement approach to the smuggling of drugs and other contraband.[65] Arrangements now had to be worked out between Customs and DEA for joint, shared, or cooperative use of resources which theretofore had been integrated within the Customs Service itself. These arrangements, whether by formal or informal means, involved such requirements as communications, exchange of intelligence, deputizing DEA agents as customs officers, and cooperative use of air interdiction.

In saying to the Department of the Treasury (Customs) its authority to search for and seize illegal drugs, and apprehend persons carrying them, section 1 of the plan included these words: "* * * at regular inspection locations at ports of entry or anywhere along the land or water borders of the United States." Customs was quick to point to this language as reaffirming its authority to operate along the borders between as well as at ports of entry.[66] And, in the Comptroller General's view, as noted above, this language "affirms and, in fact, mandates a continued function on the part of Customs for enforcement along the land borders."[67]

REACTIVATION OF BORDER CUSTOMS PATROL

Frequently citing this language in the reorganization plan, the Customs Service set about regrouping its forces and resources. It decided that the loss of more than 500 agents to DEA seriously weakened its law enforcement capabilities, and that compensating action must be taken. Among other changes made in the aftermath of the reorganization plan, a uniformed complement of customs patrol officers (CPO's) was to be deployed along the borders as "a highly mobile force," organized under a concept of "tactical interdiction." The CPO's were to be detached from the Office of Investigations, where they worked with customs agents, and to work thenceforth in conjunction with customs inspectors, aiming at a more unified enforcement effort.[68]

The increase in the CPO's was to be gradual, building up to a force of 2,500 nationwide in 3 or 4 years. For the Mexican border, this plan called for a force of about 500 in fiscal year 1975, 800 in fiscal year 1976, and 1,000 in the 1977–1978 period. The Customs Service believed that, with those numbers, the risk factor for smuggling could be raised, respectively, to 20 percent, 30 percent, and 40–50 percent.[69]

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[65] Supplemental appropriations hearings, pp. 940 ff.

[66] See for example, "Treasury, Postal Service, and General Government Appropriations for Fiscal Year 1975," hearings before a subcommittee of the House Committee on Appropriations, 93d Cong., 2d sess., March 1974, pt. I (Treasury Department), p. 411.

[67] Letter cited in footnote 20.

[68] Supplemental appropriations hearings, pp. 940, 986.

As of July 1, 1973, when Reorganization Plan No. 2 of 1973 took effect, there was, according to OMB testimony, a total of 308 customs men (286 agents and 22 patrol officers) on the Mexican border.[70] Under the plan, 204 (mainly agents) were transferred to the DEA because they were experienced in drug intelligence and investigative activities. This left slightly more than 100 customs officers working on the Mexican border, a small fraction of which were customs patrol officers.

BUDGET REQUESTS

In September 1973, the Department of the Treasury requested supplemental appropriations for the Customs Service, amounting to $12 million. A part of these funds was to be used for adding 271 CPO positions in the buildup of the mobile customs patrol force. The request was disapproved by the OMB, which viewed a reactivation of a uniformed patrol force as "a major initiative" which properly should be reviewed in the normal budget process, not in a supplemental.

Later in the month, the Treasury request was renewed, now reduced in total from $12 million to $4.6 million. That figure included $2 million for readjusting the customs work force in the wake of Reorganization Plan No. 2 of 1973. The $2 million request was divided into $0.9 million for redeployment of investigative agents and $1.1 million for the proposed transfer of customs security officers (CSO's) to CPO locations. There was a pool of some 1,300 CSO's, available for reassignment, who were being phased out of the air security program. The Government response to hijacking had been the development of this program, under Customs auspices, to provide security checks at airports and "sky marshal" protection. The phaseout began as the airlines assumed responsibility for such security.

The OMB recommended that half of the $4.6 million request, or $2.3 million, be approved. This would include $1 million for readjustment of the work force. As OMB understood the matter, most of the redeployment involved transfers of investigative agents. Accordingly, of the $1 million for work force readjustment, $900,000 was to provide for agent transfers and $100,000 for transferring CSO's to CPO positions. Information obtained from the OMB indicates that its approval of these modest funds for CPO relocation was not an endorsement of a customs patrol force. The OMB was concerned that recruiting of patrol officers indicated an intention to reestablish the customs patrol on the borders, and it believed that such a reversal in policy should be considered in the annual budget review.

According to OMB information, the President approved the budget request on October 18, 1973, but by this time, more than 100 CPO's had been deployed along the Mexican border. When the Commissioner of Customs appeared before the Appropriations subcommittee in November 1973 to justify the (approved) supplemental appropriation request of $2.3 million, he identified a figure of $558,000 as the amount asked to relocate CSO's to CPO positions. He also submitted information to the effect that "132 CPO's [had been deployed] to the

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[69] U.S. Customs Service, "A Summary Strategy for Border Law Enforcement Operations," Feb. 6, 1974, p. 2.

[70] Hearings, p. 18.

Mexican border on a detail basis to meet our statutory responsibility"; that 250 CPO's would be deployed by January 1, 1974; that "this number will be far short of the manpower actually required to perform our mission"; that he hoped to get an increase in fiscal year 1975 beyond the 877 CPO positions presently authorized; and that properly to staff the Mexican and Canadian borders, 1,170 additional CPO's (800 in the South, 370 in the North) would be required, as well as some more agents and inspectors.[71]

In July–August 1974, when hearings were held by the Government Operations subcommittee, it was estimated that about 350 customs patrol officers were in the southwest border region.[72]

Differing Positions

Differences are apparent in the estimates of the OMB and the Customs Service as to the costs and purposes of work force redeployment. The OMB made it plain in testimony before the subcommittee and in supplemental information that it was not apprised, at the time, of the detail of uniformed customs officers to the borders,[73] implying that the Customs Service was not acting altogether in good faith, because it moved before receiving express approval by the executive branch and the Congress (through a supplemental appropriation). Not immediately aware of the testimony and statements by the Commissioner of Customs to the Appropriations subcommittee on November 8, 1973, the OMB looked into the details of redeployment only after receiving letters from Congressmen about the friction between the Services patrolling the Mexican border.

As far as Commissioner Acree was concerned, the deployment of uniformed customs patrol officers was no secret—at least not to a committee of the Congress and to officials in the INS border patrol. The matter was discussed with both headquarters and field officers of INS in September 1973, and informal agreements were sought for coordination and cooperation between the Services in each operating area.[74] Mr. Silberman, the Deputy Attorney General, gave the INS view of the meetings and indicated that if the Customs Service had subjected this move to proper review and comment, ensuing difficulties would have been avoided.[75]

The hearing by the Appropriations subcommittee on the supplemental request in November 1973 evoked little in committee discussion about the proposed deployment. Certainly no objections were raised. In fact, the subcommittee recommended, and the House approved, $7 million in place of the $2.3 million officially requested for the Customs Service. The Senate committee noted in its report that no testimony had been presented to support the need for funds above the amount requested, and it approved only the $2.3 million. The Senate report indicated that most of the added funds were intended for "preclearance operations" rather than for redeployment.[76]

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[71] Supplemental appropriations hearings, pp. 941, 986, 991.

[72] Hearings, pp. 18, 47. According to the Commissioner of Customs, however, there were 254 filled positions for customs patrol officers on the southwest border as of July 1, 1974. Hearings, p. 132.

[73] Hearings, p. 10.

[74] Hearings, p. 145.

[75] Hearings, p. 96.

[76] S. Rept. No. 93–614, Dec. 11, 1973, p. 65.

In conference, the House and Senate approvals were compromised at $5 million. Both the House and Senate reports mentioned the need for rebalancing the customs work force because of the impact of Reorganization Plan No. 2 of 1973, but no specific mention was made of the deployment of uniformed customs patrol officers to the borders.[77] The floor debates on the supplemental appropriations bill, H.R. 11576, also did not reflect any discussion of the matter.[78]

By the time of the next regular appropriation (fiscal year 1975), the OMB plan had been announced, and the Appropriations Committee and the House of Representatives wrote into the appropriation bill the restrictive language noted earlier, which became part of the law.[79]

MULTIPLE COMMITTEE INTERESTS

The OMB, in developing its plan, consulted with the agencies concerned and with Chairman Steed and the staffs of the House and Senate Committees on Appropriations.[80] It did not consult with this committee. Yet, when difficulties were encountered in gaining acceptance, the OMB looked to this committee for aid in resolving the issues.

The Committee on Government Operations has a general oversight responsibility from the standpoint of economy and efficiency in agency performance, and it has a special legislative interest associated with reorganizational matters. Reorganization Plan No. 2 of 1973, which set in train the developments leading to the OMB plan, was reported (unfavorably) by this committee. However, it is not the committee of primary legislation (policy) for these agencies, and of course it does not appropriate any funds. The following list reflects the committees and subcommittees primarily involved and the division of legislative responsibilities.

1. The Committee on Government Operations has general oversight responsibility and legislative jurisdiction over reorganization plans.

(*a*) The Subcommittee on Legislation and Military Operations, which exercises committee jurisdiction in reorganization matters, examined the issues presented by the OMB plan.

(*b*) The Subcommittee on Legal and Monetary Affairs, which has the Departments of Justice and the Treasury in its jurisdiction, is con ducting a study of the Immigration and Naturalization Service. particularly with regard to illegal alien control.

2. The Committee on Ways and Means has legislative jurisdiction over the U.S. Customs Service.

3. The Committee on the Judiciary has legislative jurisdiction over the Department of Justice and its component, the Immigration and Naturalization Service. Its Subcommittee on Immigration, Citizenship, and International Law has legislative and oversight jurisdiction over the Immigration and Naturalization Service.

4. The Committee on Appropriations has general funding jurisdiction.

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[77] H. Rept. No. 93-663, Nov. 26, 1973, p. 39; S. Rept. No. 93-614, Dec. 11, 1973, p. 65.

[78] Cf. the Comptroller General's statement, presumably based on the information brought out in the hearings, that "the background of the 1974 supplemental appropriation in effect indicates congressional recognition and confirmation of a Customs function along the border and a need for such a patrol." See letter cited in footnote 20.

[79] See footnote 19.

[80] Hearings, p. 2.

(*a*) Its Subcommittee on State, Justice, Commerce, and Judiciary reviews and reports on the budget of the Immigration and Naturalization Service.

(*b*) Its Subcommittee on Treasury, Postal Service, General Government reviews and reports on the budget of the U.S. Customs Service.

Since the plans and programs of the INS and the Customs Service are not subject to yearly authorizations by the legislative committees, congressional review on a yearly basis falls to the two Appropriations subcommittees. And if one such subcommittee takes a particular interest in an agency's problems, and writes protective or restrictive language in an appropriation bill, customarily these items are accepted, with the congressional interest being directed more toward the recommended appropriations than to the miscellany of attached provisions.

There is no simple way in which the problems of overlap and duplication among agencies can be resolved, because there is no established legislative procedure for bringing agencies, plans, and programs into concert. Yearly authorizations by the legislative committees, although not favored by the Appropriations Committee because of the legislative delays often involved, would serve nevertheless to develop and make visible, on a systematic basis, the important policy and program issues.

THE PRESENT POSTURE

The "bureaucratic border war," as Chairman Holifield described it,[31] is a case of aggravated conflict by two Services, each long established, proud of its traditions and performance, and charged with exercising responsibilities that overlap and cause conflicts despite a mutually expressed desire to cooperate and coordinate. According to OMB testimony, the two Services are competing excessively to show favorable arrest and seizure statistics, exchange of intelligence and other operating information is negligible, and the flow of both aliens and marihuana in the same areas risks confrontations between the two patrols. Patrol tactics are said to be similar, but each Service maintains its own lines of organization and communication. Even the radio frequencies are different. The barriers to cooperation are said to be stronger than the incentives.[32]

The committee believes that the problems of duplication and conflict are serious, and corrective action is indicated. At the same time, it does not want to exaggerate the intensity of the conflict and the frequency of actual confrontations in which competing agents might risk life and limb, mistaking each other for smugglers or illegal aliens.

No matter how the problem is viewed, it is a difficult one to solve. Where several agencies are engaged in activities involving duplication of personnel in the same area, the first reaction is to say that they should be consolidated. This is easier said than done, since the agencies affected have other responsibilities which do not overlap or duplicate, so that detaching functions or breaking them up into pieces for regrouping creates other problems. A case in point, discussed above, is the centralization of certain drug law enforcement functions in the DEA, which required the Customs Service to readjust and regroup, with the consequent problems under review in this report.

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[31] Hearings, p. 2.

[32] Hearings, pp. 6, 16, 17, 22, 23. On the matter of tactics, the Commissioner of Customs contended that the two Services operated differently, citing as evidence that 250 customs officers in less than 9 months seized as much contraband as 1,400 border patrolmen did in a full year. Hearings, p. 135.

Single-agency management, in this context, does not automatically resolve all problems. It depends on the extent of the authority accorded the single manager and the numbers and kinds of functions assigned to his control. Nevertheless, the term "single-agency management" has the appeal of simplicity and conveys a sense of unity, efficiency, and accountability. Mr. Ash, the OMB Director, in his testimony before the subcommittee, repeatedly used the analogy of the city policeman to suggest that law enforcement functions on the Mexican border should be in the hands of the INS border patrol as a "single agency." [63] And Mr. Silberman, the Deputy Attorney General, said: "Single agency responsibility is the guiding principle of sound law enforcement, and INS is best equipped to be that single agency." [64]

As the committee understands the OMB plan, and as the testimony indicates, single-agency responsibilities are not that clear-cut. A uniformed customs patrol would be removed from the border, but customs officers still would make incursions and forays on the border in contraband interdiction, even if not working in uniform and marked cars. Agents of the INS border patrol, though taking over routine patrol functions, would not necessarily be confined to the borders, since, under applicable laws and regulations, they may operate checkpoints and make checks at distances up to 100 miles from the border.[65] Furthermore, DEA agents would continue to work the border areas in pursuit of their own law enforcement responsibilities under Reorganization Plan No. 2 of 1973.[66]

As for single-agency management at ports of entry, the OMB test program is far from a consolidation in the sense contemplated by the Comptroller General's report. Inspectors of the Department of Agriculture and the U.S. Public Health Service would continue to work as before. The Customs Service, in the single-manager role, would be concerned with so-called primary inspections and port administrative activities, but the Immigration and Naturalization Service still would maintain inspectors for followup inspections as required.

The OMB Director saw an advantage in testing single-agency management at the ports of entry. If the results were not productive, the test could be abandoned.[67] This was an argument for administrative flexibility rather than for a plan set in statutory concrete. It is difficult, nevertheless, to understand why a test program need encompass all 22 border ports of entry in the Southwest and be carried on for a year or more. Calling it a "test" could be a convenient way to justify an action which the Congress had negated by repealing section 2 of Reorganization Plan No. 2 of 1973.

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[63] Hearings, pp. 10, 22, 24.

[64] Hearings, p. 32.

[65] Under 8 U.S.C. 1357(a)(3) immigration officers, pursuant to regulations prescribed by the Attorney General, are empowered to search for aliens "within a reasonable distance from any external boundary of the United States." Searches may be made on vessels within territorial waters, railway cars, aircraft, conveyances, or vehicles. Within a distance of 25 miles from a border, the immigration officers have access to private lands, but not dwellings. The Attorney General, by regulation, has specified that 100 miles from the border is a reasonable distance. 8 CFR 287.1(a)(b).

[66] Hearings, p. 148.

[67] Hearings, p. 26.

CONGRESSIONAL SANCTION NEEDED

The OMB plan was developed as "a long-term solution rather than simply [to] patch over the present difficulties."[88] We commend the OMB for seeking that objective, but that is all the more reason why the OMB should have consulted more broadly with the congressional committees which have an interest in the matter and should have sought congressional sanction. Such sanction is indicated on at least three counts: (1) To insure acceptance and compliance by agencies not otherwise favorably disposed; (2) to remove any question of the legal sufficiency of the plan so far as it involves a transfer of functions; and (3) to facilitate such transfers of personnel and assets as might be required.

What kind of congressional sanction is required? The lapse of the Reorganization Act authority removed a ready means for congressional review and approval or veto of such actions as are proposed in the OMB plan. However, suitable legislation to authorize the proposed actions could have been drafted, and in view of the legal issues, probably should have been.

We do not suggest, by identifying a need for congressional sanction, that the committee thereby approves the OMB plan. It may be the best of numerous alternatives proposed and considered recently and in past years. But the plan is not supported by a convincing analysis, and the OMB itself did not present any backup data.

TRANSCENDANT PROBLEM—ILLEGAL ALIENS

Considering the circumstances in which the OMB plan was developed, the controversies engendered, and the questions still unanswered, the committee believes that more work is needed before the long-range solution is found to management of border activities. In the committee's belief, far more pressing at this time than problems in interagency relationships at or between borders is a problem which transcends all agencies' present capabilities—the massive infusion of illegal aliens into the United States. Recent estimates suggest that there are between 5 and 7 million illegal aliens in this country. As is well known, they usually work for lower wages, displacing U.S. citizens from jobs; and they place heavy burdens on State and local education, welfare, and health services. The flood of aliens is expected to increase because Mexico has a fast-growing population, and its expanding work force seeks opportunities for better earnings in the United States.

Commissioner Chapman has informed Chairman Holifield that in trying to stem the flow of illegal aliens across the Mexican border with its limited resources, the INS has decided to establish priorities in its use of manpower.[89] These involve strengthening immigration inspection forces at Mexican border ports of entry by transfer of inspectors from the Canadian border, and moving more border patrolmen to the southern border from interior locations. The effect will be to reduce checks at farms and ranches and transportation routes in favor of a stronger presence along the borders.

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[88] Hearings, p. 7.

[89] Letter dated Oct. 23, 1974 [INS file No. 703.343].

The Attorney General recently disclosed that the Department of Justice has proposed to the President an increase of 2,200 in the number of immigration agents at an annual cost of $50 million. The committee is advised that approximately 1,000 of the requested number would serve in the border patrol. This would almost double the present border patrol strength of the INS. Top priority would be given to apprehending and returning 1 million persons who, the Attorney General estimated, were holding jobs illegally in the United States.[90]

The committee recognizes that the problem of illegal alien entry is so overwhelming that even a doubling of border patrolmen may not materially reduce the flow. Nevertheless, in the committee's view, the attempt should be made; and $50 million is a small price to pay for an expanded effort, compared to the costs incurred by the Federal Government and the communities which have to take care of the thousands of needy aliens.[91]

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[90] See Washington Post, Oct. 31, 1974, p. A-5.

[91] In 1973, the California State Social Welfare Board estimated the cost of welfare payments to illegal aliens to be at least $100 million a year. Hearings, app. 2, p. 227.

IV. FINDINGS AND RECOMMENDATIONS

FINDINGS

1. The Customs Service undertook, as a "major initiative," to deploy a uniformed force of customs patrol agents along the Mexican border without the full knowledge, understanding, and approval of the Office of Management and Budget. Technically, the Customs Service was able to act under its own statutory authority, and an Appropriations subcommittee was informed of the deployment plan. But the magnitude and importance of the move, and the inevitable interaction and potential conflict with other agencies, should have induced the Customs Service to consult with and obtain approval from the OMB.

2. The OMB responded properly to requests by Members of Congress that reports of duplication and conflict between the U.S. Customs Service and the INS border patrol be assessed, and that a plan for corrective action, if necessary, be developed. However, the OMB Director went too far in attempting to promulgate, without congressional sanction, a plan for single-agency management in southwestern border areas and functions. The reassignment of responsibilities envisaged in the OMB plan raised serious questions as to whether it could be achieved legally by administrative action alone.

3. Apart from its questionable legal status, the OMB plan was not presented in sufficient detail and lacked the supporting data to justify its promulgation as a long-range solution to a complex problem. Too many unsettled issues were left for resolution through operating agreements to be worked out by the agencies concerned.

4. The committee sees no sense in having two different agencies conducting routine border patrol functions. On the other hand, the Customs Service and the INS border patrol have separate statutory responsibilities which justify and require the presence of each on or along the land borders of the United States. There is no inherent reason why suitable arrangements cannot be worked out for cooperative actions of the two agencies and shared use of mutually required resources.

5. The OMB was not well-advised to provide for a "test program" of single-agency management of designated inspection functions at border ports of entry. The Congress had repealed section 2 of Reorganization Plan No. 2 of 1973, which similarly provided for single-agency management. Although the Congress, in the repeal action, was more concerned about preventing the transfer of 900 INS officers to the Customs Service than in the merits of single-agency management, the committee believes that a reinstatement of such an arrangement so soon after the repeal is not in keeping with the spirit of the enactment.

6. In view of the controversies and ill feelings that have been engendered by the OMB plan, and the restrictive provision against a portion of it written into the Treasury, Postal Service, and General

Government Appropriation Act, 1975, the committee believes that a sounder basis for agreement is required between the participating agencies.

7. The committee believes also that transcending in importance the problem of interagency relationships at and between the borders is the overwhelming problem of illegal alien traffic, which is not now under control, and which is causing heavy cost burdens to the Federal Government and to communities that must provide needed services.

RECOMMENDATIONS

1. The Office of Management and Budget should withdraw its plan to reassign responsibilities between the Customs Service and the Immigration and Naturalization Service at and between border ports of entry, as outlined in identical letters of June 5, 1974, to the Secretary of the Treasury and the Attorney General.

2. The President should direct the Secretary of the Treasury and the Attorney General to draw up a mutually acceptable plan for coordinated conduct of their operations at and between border ports of entry. This plan should recognize that:

(*a*) Both agencies have statutory responsibilities for border law enforcement;

(*b*) The U.S. border patrol, by numbers, training, and tradition, is better fitted to perform regular or routine patrol functions;

(*c*) The Customs Service should go forward in developing its concept for tactical interdiction of contraband without duplicating or conflicting with border patrol functions;

(*d*) Other Federal agencies have border responsibilities at or between ports of entry, and account should be taken of their requirements;

(*e*) Effective coordination depends, in large part, on the initiative and cooperation of local elements in the operating agencies, and suitable arrangements will have to be made to take account of differences in terrain, population density, and specific law enforcement problems; and

(*f*) To accord with sound principles of law enforcement, single centers of responsibility should be established to the greatest practicable extent in operating areas.

3. Employee organizations in the Services affected should be consulted and afforded opportunities to comment on proposed arrangements or details of the operating agreements.

4. Recommendations should be developed, and appropriate action taken, for eliminating unjustified disparities between the two Services in terms of job classification, compensation, and perquisites and privileges of persons performing essentially similar duties.

5. The Congress and its interested committees should be consulted and kept fully informed of the arrangements to be worked out prior to their implementation. If transfers of functions, equipment, or personnel are contemplated or consolidation of agencies desired, legislation is necessary and the President should submit draft legislation to the Congress for its approval.

6. The President and the Congress should give favorable consideration to the pending requests of the Department of Justice for an in-

crease of approximately 2,200 in the number of Immigration and Naturalization Service personnel, including at least 1,000 additional border patrol officers, to cope with the extremely serious problems of illegal alien entry into the United States.

7. The Committee on the Judiciary should consider the development of legislation to require annual or other periodic authorizations for programs of the Immigration and Naturalization Service to the end that legislative oversight will be maintained and adequate resources will be made available for control of illegal alien traffic.

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United States
Department of Justice

A Secure Border: An Analysis of Issues Affecting The U.S. Department of Justice

This paper and the attached statistical data have been prepared in response to the request of the Office of Management and Budget for the position of the concerned agencies of the Department of Justice on salient issues related to the security of the United States' borders.

U.S. Department of Justice

A SECURE BORDER: An Analysis of Issues Affecting the U.S. Department of Justice

Immigration & Naturalization Service
Drug Enforcement Administration

March 4, 1974

This paper and the attached statistical data have been prepared in response to the request of the Office of Management and Budget for the position of the concerned agencies of the Department of Justice on salient issues related to the security of the United States' borders.

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INFORMATION REQUEST FROM OFFICE OF MANAGEMENT AND BUDGET

Reports and Analyses

The required reports should focus not just on the individual agency's operations, but particularly on the interface with operations of other law enforcement agencies (Federal, state, local). Particularly in the case of intelligence, agencies may wish to supplement the reports with a briefing or series of briefings to OMB.

1. Agency strategy for border law enforcement operations. [Part II]
2. An assessment of effectiveness of Federal agencies law enforcement operations along the border between ports. [Part III]
3. Proposals for improved law enforcement and security along the border between ports. [Part V]
4. An assessment of intelligence - sharing among Federal agencies along the borders:
    - Data on volume and trends of intelligence.
    - Principal sources of intelligence.
    - Effective use of convoy and other enforcement operations. [Part IV]

PREFACE

The concerned agencies of the Department of Justice have prepared a joint response to the request of the Office of Management and Budget for their position on certain salient issues concerned with the security of the United States' borders. The attached material represents the positions of the Drug Enforcement Administration and the Immigration and Naturalization Service.

The agencies of the Department welcome the opportunity to present their views with respect to the issues being considered by the Office of Management and Budget during its "Border Study." The need for a comprehensive review of the various issues involved in the operations of the several Federal law enforcement agencies which have responsibility along the Southwest Border has long been recognized. In the development of the Determination Order which transferred certain personnel and equipment from the U.S. Customs Service to the Drug Enforcement Administration under Reorganization Plan No. 2 of 1973, the transfer of certain support equipment was held in abeyance by the Office of Management and Budget pending the completion of a "Border Study." The ultimate disposition of equipment is less important than the recognition of the need to review objectively and define clearly the roles which Federal law enforcement agencies have for operations along the borders of the United States, particularly the 1,900 miles between ports-of-entry in the Southwest.

With the increase in Federal law enforcement efforts in the Southwest Border area and the use of improved technology, e.g., sensor fields, on-line data retrieval systems, and air interdiction programs, the need for closer cooperation, improved sharing of information and resources, and a clearer definition of roles and responsibilities has become increasingly apparent. Consequently, the Department of Justice agencies fully support an objective inquiry which will achieve these ends. The agencies of this Department are concerned that any proposals developed and implemented for the clarification of enforcement roles in the Southwest Border area be based on considerations of effectiveness.

The Justice agencies will fully support workable proposals which:

- Improve border security;
- Reduce the proliferation of duplicative enforcement efforts and support capacities;
- Make the most effective use of the best available support technology by all concerned agencies, including the sharing of resources, e.g., sensor systems, on-line data systems, communications systems, intelligence systems, etc.;
- Improve the capabilities of the concerned agencies while recognizing their demonstrated expertise, experience and ability to research and develop new techniques, equipment and systems;
- Facilitate the effective discharge by the Department of Justice of its statutory responsibility for the control of illegal immigration and trafficking in narcotics and dangerous drugs.

While there are other agencies concerned with the security of the Southwest Border, e.g., Public Health Service, Agriculture, FAA, Coast Guard, DoD, the principal agencies involved in law enforcement are the

Departments of Justice and Treasury. The respective law enforcement programs of the two Departments have evolved considerably in recent years. Reorganization Plan No. 1 of 1968 and Reorganization Plan No. 2 of 1973 were key landmarks in this evolutionary process.

The Treasury Department has had a long and distinguished role in Federal law enforcement and will continue to have an important role in the future. Its principal mission, however, is the collection of revenue and the management of the financial and economic affairs of the United States.

In contrast, the Department of Justice mission is primarily one of law enforcement and the administration of justice. Hence, as the Border Study progresses and as options develop for the possible reallocation of resources or responsibilities, it is the view of the Department of Justice agencies that recommendations made or decisions taken concerning such options should be made with due regard for the principal missions of the two Departments.

Both I&NS and DEA fully support the Office of Management and Budget in this current Border Study.

L.F. Chapman, Jr.
Commissioner, Immigration
and Naturalization Service

Date: March 1, 1974

John R. Bartels, Jr.
Administrator, Drug Enforcement
Administration

Date: March 1, 1974

PART I

INTRODUCTION

Unlike many other countries in the world, the United States has resisted the instinct to "seal off" its border. The tradition of open borders between the United States and Canada and Mexico is based on the excellent relations we have enjoyed with our neighbors. The spirit of cooperation and friendliness has been the foundation and hallmark of these relationships.

Unfortunately, the traditional border policy has, of necessity, been modified in recent years, and it has been increasingly necessary for Federal law enforcement agencies to devote more resources to making the border secure. By taking advantage of the relatively thin perimeter of defense which we and our neighbors have deployed along our common borders, illegal entrants and smugglers have been crossing our borders with increasing regularity. While the full dimensions of this problem are not known, there is substantial evidence that present efforts are not successful either in preventing or significantly deterring people or contraband from illegally entering this country in large volume.

"Sealing" the entire border is not economically or politically feasible, and the politico-cultural climate of the country is such that legalization of certain types of contraband or the relaxation of the immigration laws appear highly unlikely. Consequently, the options available for a U.S. border policy lie somewhere between these two extremes.

Border Control

Control of the border area is basically a problem of controlling the movement of people, vehicles, aircraft and goods. Formal inspection of people, vehicles and goods takes place at 103 ports-of-entry which front the Northern and Southern Borders. The U.S. Customs Service (Customs) and the Immigration and Naturalization Service (I&NS) are the principal agencies responsible for this inspection. The Drug Enforcement Administration (DEA) investigates those illegal drug cases which it initiates as well as those uncovered through the inspection activities of Customs and I&NS.

While the inspection operations at ports-of-entry have been a subject of considerable discussion in recent years, this report focuses its analysis on enforcement activities in the vast border areas *between* the ports-of-entry. Enforcement in these areas has been principally the responsibility of the I&NS Border Patrol. In recent years, Customs has engaged in some limited patrol activities aimed at curbing smuggling at and near ports-of-entry and at selected other points along the border. However, in the last few months, Customs has considerably stepped up and expanded its patrol activity along the border and begun to operate that function in a fashion analagous to that of the Border Patrol.

Immigration

In FY 1973, 260 million people legally entered the United States. Of this total, 160 million or 63 percent entered via the Southwest Border. While legal entrants are not the concern of this analysis, a land border enforcement strategy should not overlook the causal linkages between the inspection policies at official ports-of-entry and the number of people seeking to enter surreptitiously across the land borders. I&NS officials believe there is a clear relationship between more stringent port-of-entry inspections and an increase in illegal border crossing attempts.

In recent years, a relatively strict admission policy has been followed by I&NS and the Department of State and this may have had some impact on the increased volume of attempted illegal entry. In FY 1973, 222,286 applications for visas were denied by the Department of State and 379,604 aliens were refused admission to the United States.[1] (Table 1 summarizes admission refusals.) Based on the debriefings of apprehended illegal entrants, a significant number had first attempted legal entry but were either denied visas or admission. These 600,000 aliens have a high potential to become illegal entrants, especially the 40 percent who were denied admission at U.S. ports-of-entry.

TABLE 1

Aliens Refused Admission by I&NS at
Ports-of-Entry
FY 1973

Location		Aliens
Northeast Region		55,423
Northwest Region		44,551
Southeast Region		15,217
Southwest Region		264,413
	TOTAL	379,604

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[1] Visa data from the Department of State Visa Office.

A major concern along the land borders is the illegal entrant, or entrant without inspection (EWI). In FY 1973, 551,328 EWIs were apprehended throughout the U.S. by I&NS (see Table 2). Ninety-nine percent claimed to have entered across the Southwest Border, with the balance entering at numerous points along the Northern Border. It is clear that the principal immigration border problem is along the 1,900 miles between Brownsville, Texas and San Ysidro, California.

TABLE 2

Illegal Entrant Apprehensions (EWIs)
FY 1973

Total I&NS	551,328
Border Patrol (Nationwide)	466,857
Border Patrol (Southwest)	453,471
Border Patrol at the Time of Entry at the Immediate Border (Nationwide)	173,633
Border Patrol at the Time of Entry at the Immediate Border (Southwest)	170,538

Illegal Drugs

Because narcotics and dangerous drugs are by far the principal contraband smuggled across our Southwest Border, the "border problem" is seen, within the context of national priorities, as a drug enforcement problem. Recent statements by the Cabinet Committee on International Narcotics Control (CCINC) and the conclusions of various consultants' studies, e.g., The Institute for Defense Analysis' (IDA) "Brown" Heroin

Study and the MITRE Corporation Technical Reports, support the view that a significant percentage of the narcotics and dangerous drugs entering the U.S. crosses the Southwest Border.

In addition, several other factors prompt drug enforcement officials to view the Southwest Border as an area of primary concern and worthy of increased enforcement efforts. First, the heavy volume of land, sea and air traffic across the Southwest Border provides the smuggler with a considerable degree of anonymity. Secondly, the Mexican warm climate permits poppy cultivation in many remote areas; the harvesting of poppy represents to many in the labor force the only alternative to an otherwise impoverished circumstance. Finally, DEA intelligence indicates that because illicit drugs can enter Mexico with relative ease, many major international drug traffickers have transferred their base of operations to Mexico.

Nevertheless, there is no reliable estimate of the quantity of drugs entering across the Southwest Border, or for that matter, the total quantity illegally entering the United States. Studies by the MITRE Corporation have placed U.S. heroin consumption at between 15,400-28,600 pounds in 1972. MITRE also estimates that approximately 3,960 pounds of the supply were smuggled either *across* the border or *through* the ports-of-entry in the Southwest.[2] This level of supply represents one-fourth of total estimated imports via all routes.[3] DEA and Customs experts have been quoted as estimating that seizures by all Federal enforcement agencies nationwide represent only 5-15 percent of the total quantity of illegal drugs entering the country. While the above figures cannot necessarily be defended as being 100% accurate, they do provide some indication of the magnitude of the problem.

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[2] MITRE Corporation, Technical Report 6430, Volume II, page 20.

[3] MITRE Corporation, Technical Report 6265, Volume I, page 4.

TABLE 3
Estimated Volume of Heroin Entering Country
Compared With Seizures
1972

Volume/Seizures	Amount (Pounds)[a]
Estimated Total Volume of Heroin Entering Country	15,400-28,600
Estimated Heroin Smuggled Across Mexican Border	3,960
BNDD/Customs Seizures	
- Nationwide	1,034
- Border and Ports-of-Entry	230

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[a] Data in the MITRE studies were cited in kilograms but have been converted to pounds for consistency with other seizure data and estimates in this report.

Organizational Response

DEA, I&NS and Customs, the three key agencies having the principal role in law enforcement in the border area, face many common problems and use many common techniques while pursuing their individual enforcement targets and goals.

All three agencies seize narcotics and dangerous drugs; all have intelligence capabilities and enforcement techniques which can be more fully utilized when shared with the others; all have a need to continually re-evaluate their own effectiveness. How these agencies should function together on the border to achieve a common goal, while maintaining a unique pride in their work and a healthy competitive spirit, is the critical challenge.

PART V

RECOMMENDATION FOR IMPROVED LAW ENFORCEMENT AND SECURITY ALONG THE BORDER

From the perspective of the Department of Justice agencies, there are a number of changes which would substantially improve law enforcement and security along the United States' borders. Much of the background for the proposals discussed below was described in some detail in the previous sections of this report. The proposals are grouped into four categories: (1) Improved Role Definition, (2) Resource Sharing, (3) Resource Augmentation, and (4) Legal and Statutory Changes.

Improved Role Definition

As described in the previous sections of this paper, there are a number of areas where activities and responsibilities of enforcement agencies in the border area overlap. This situation has created some friction, an uneven distribution of resources and some duplication of effort. All these problems are unnecessary and dysfunctional in an area where the volume of work to be handled by all law enforcement agencies provides ample opportunity for all to play a significant role. Several proposals to alleviate this problem are offered in the next few pages.

1. *It is recommended that a "lead agency" concept be adopted to clarify responsibility and authority and to promote cooperation and efficiency of operations where overlapping enforcement roles are creating dysfunction among the border agencies.*

Each agency working in the border area has statutory responsibility for a particular enforcement target, i.e., aliens, narcotics and dangerous drugs, or contraband, and each has developed certain expertise and resources best suited for its mission. Some duplication of effort is unavoidable if all agencies continue to define the most appropriate program response to their mission and to develop a capability relative to it. Therefore, it is recommended that a "lead agency" be identified for specific functional areas and other agencies be constrained from developing their resources in excess of their real needs. This is *not* a "shared resource" concept of a single organization providing support to others performing a parallel mission. Rather, primary mission responsibility would be assigned to a specific agency, recognizing that the other agencies may have some level of activity for which they require a basic capability. Under the leadership of OMB, a formal agreement should be developed among all the agencies which have border responsibilities. This agreement would identify the specific lead agency for each enforcement function and would detail the interfaces between each agency.

Upgrading of support equipment to acquire the most technologically advanced "state of the art" capabilities and expansion programs would be authorized only to the "lead agency," and future resource allocations by OMB would consider this distinction. This recommendation does not require elimination of any existing capabilities within any agency, although in some cases reassignments might be determined by OMB to be appropriate.

2. *It is recommended that the I&NS Border Patrol be designated the "lead agency" for all land patrol operations and for security against all illegal movements across the land borders of the United States between ports-of-entry, including the Falcon and Amistad Lakes and the St. Lawrence Seaway.*

The problems created by the overlapping roles of the newly revitalized Customs Patrol and the I&NS Border Patrol have been described in some detail in Part III of this report. The problem is a serious one which has real potential for increased friction. One incident has already occurred in which loss of life on the part of a Border Patrolman may have been narrowly averted. The situation is one where unnecessary duplication, conflict and tension should not be allowed to continue.

There is definitely a role for the Customs CPO force in the border area and one which, if closely coordinated with the activities of the Border Patrol, could substantially improve the effectiveness of Federal enforcement efforts.

The Border Patrol has had principal responsibility for the security of the United States' land borders for 50 years. Presently, it has 1,398 personnel stationed in the Southwest. *All* are proficient in Spanish, and all have been given intense special training which uniquely prepares them for working in the Southwest Border area. The Border Patrol's sensor systems and other highly developed systems for maintaining border security--traffic check points, systematic air surveillance, and its intelligence sources on both sides of the border--uniquely qualify it for this "lead agency" role.

As the "lead agency", the Border Patrol, through its Sector Chiefs, would coordinate the operations of the Customs CPO force in the immediate border area. It is suggested that the "immediate border area" be defined as a 100 mile cordon along the border between ports-of-entry.[1] DEA would also coordinate its operations with I&NS when in an area normally patrolled by the Border Patrol. In this coordinative role, the Border Patrol Sector Chief would be informed of all intended operations of other agencies and would ensure that full cooperation was received from the Border Patrol.

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[1] 8 U.S.C. Section 1357(a)(3) empowers I&NS officers without warrant to search conveyances for aliens within a reasonable distance from any external border. 8 CFR Section 287.1(a)(2) defines reasonable distance as 100 air miles from the external borders of the U.S.

If, for example, the Custom's CPOs or DEA determined that an operation in a certain sector was warranted, the Border Patrol Sector Chief would ensure that Border Patrol personnel in the area were alerted and this would not jeopardize the CPO or DEA effort. At the same time, the full resources of the Border Patrol would support the CPO and DEA operations. Sensor alarms from the I&NS sensor fields in their area would be immediately relayed to them by I&NS controllers. CPOs and DEA agents would be given access to I&NS radio frequencies so that coordination with adjacent Border Patrol operations could be maintained. I&NS would make its training resources available to the CPOs so that they could develop proficiency in Spanish and develop the other special skills which operating in the border area require, e.g., "sign cutting," the use of four-wheel drive vehicles and the effective use of sensors.

As part of its cooperative effort between ports-of-entry, it would be anticipated that the CPO teams would be responsive to the leadership from the Border Patrol Sector Chief so that the most effective use of all Federal manpower along the border could be accomplished. This would mean that CPO teams would be expected to closely coordinate their movements with the Border Patrol; that they would apprehend suspected illegal aliens they encountered in their operations and turn them over to I&NS; and that when problems developed, the CPO teams would be responsive to the Border Patrol Sector Chief.

As the "lead agency" for land interdiction operations along the Border, I&NS would have prime responsibility for the development and expansion of all technological support systems directly related to this responsibility. This would mean that the further expansion of sensor systems along the border would be the responsibility of I&NS, and the installation of similar systems by other agencies in areas normally patrolled by the Border Patrol would be done only after coordination with I&NS.

While Recommendation 4 below proposes that a "lead agency" be established for maritime interdiction, certain exceptions should be considered. There are three waterways which are intrinsic to the land border and they should be the responsibility of the "lead agency" for land patrol. On the Southwest Border, Falcon and Amistad Lakes are the only break in the land border. If these lakes were not made the responsibility of the Border Patrol there would be a potential for the duplication of effort which the "lead agency" concept attempts to resolve. On the Northeast Border, the Border Patrol currently patrols the St. Lawrence Seaway. Since the waterway composes an important segment of the Border, it is recommended that the Border Patrol continue in its present role along the Seaway.

To implement the "lead agency" concept in this sphere of responsibility it is suggested that OMB use its influence to encourage the development of a cooperative agreement between I&NS and Customs which would incorporate the basic elements described above. It is suggested that each agreement can only be effectively developed if the Border Patrol is first identified by OMB as the "lead agency."

3. *It is recommended that DEA be designated the "lead agency" for air investigation programs in the Southwest Border area, and that OMB establish a task force to determine the future roles of Customs Service and DEA in this critical enforcement area.*

4. *It is necessary that separate lead agencies be identified for maritime investigations and maritime patrol operations, i.e., DEA be charged with "lead agency" responsibilities for maritime investigation and that OMB establish a task force to ascertain which agency should be charged with responsibility for maritime patrol along the east and west coast and across the Great Lakes. It is further recommended that task force membership include Customs, I&NS, DEA and the U.S. Coast Guard.*

Since mid-1972, Customs has been operating an experimental air interception operation at four locations near the Southwest Border. In almost all respects, Customs' operations have had the character of "patrol" operations. Using surplus military aircraft, Customs' pilots patrolled certain sectors of the border looking for "targets of opportunity", i.e., aircraft which appeared to warrant surveillance. When possible these aircraft are followed to their destination and subsequently examined to ascertain whether there has been any prior involvement with illicit drugs. To assist in these special operations, Customs' aircraft have airborne radar and forward-looking infrared scanner systems. They also operate in close cooperation with FAA and the Weather Bureau radar controllers when feasible.

Almost all of the Customs pilots interviewed in July of 1973 viewed the random patrol activity as totally ineffective. They stated that an air interception program would be effective only if it were an investigative effort, i.e., aircraft were deployed in response to intelligence leads developed through coordinated investigations. Better investigative coverage of airports, procurement of specialized aircraft having high and low speed capability and low maintenance costs, and improved ground radar and other technical support were identified as intrinsic elements of a successful patrol program. Patrol alone is not a productive effort.

Reorganization Plan No. 2 of 1973 identified DEA as the single agency responsible for "intelligence, investigative and law enforcement functions . . . which relate to the suppression of illicit traffic in narcotics, dangerous drugs, or marijuana . . .." Some, but not all, of the Customs enforcement personnel and material were transferred to DEA. Part of the difficulty in determining whether the experimental air activity described above should have been transferred to DEA hinged on the question of whether it was essentially a "patrol" or an "investigative" function. Persuasive arguments bolstering both positions were developed at that time. However, all of the air program was targeted at illegal drug smuggling. OMB decided to defer a decision on whether the transfer of the Customs experimental air program to DEA was appropriate under the terms of the Reorganization Plan.

As a response to smuggling by air and sea, it has been established that cold patrolling with the available equipment is not an effective deterrent and provides no more than a 1-2 percent chance of succeeding. Using more equipment would increase the probability of a "hit," but the cost would be prohibitive if the Government were to mount a fully effective program. However, it is estimated that the probability of success can be increased dramatically, to perhaps 70 percent or more per mission, if an interception program is supported by an effective intelligence system.[2] Air and maritime investigations should encompass *surveillance* of aircraft or boats involved in illegal trafficking under conditions which must be assisted by radar, sonar, infrared detectors, etc., and the *tagging* of suspect aircraft and boats to facilitate surveillance and to permit them to be distinguished from legitimate aircraft and boats functioning in the target area.

By virtue of its statutory responsibility, organization, and program expertise, DEA is the Federal organization best equipped to conduct worldwide investigations of drug violations. The technical expertise required to plan and execute the development of viable programs rests with DEA. To fulfill its investigatory function, DEA must develop and apply specialty aircraft, boats, and supporting systems for use against the air and maritime smuggling targets.

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[2] Mitre Corporation, "System Concept for Drug Interdiction," (1973).

Air and maritime investigations do not represent the sole use of aircraft and boats by Customs, I&NS and DEA. Patrol, transport, overt surveillance, spotting, and "sign cutting" activities also employ aircraft and boats. It is assumed that DEA, I&NS and the Customs will have a continuing need for these tactical resources.

As for maritime patrol, the U.S. Coast Guard clearly has more experience than Customs, I&NS and DEA in maritime operations and should be considered as a principal candidate for the "lead agency" responsibility. Its licensing programs and familiarity with small boat activity provide a data base which could be useful in maritime patrol activities. The Coast Guard has historically played a significant anti-smuggling role, and its statutory authorities provide legal authority for mounting an aggressive overt patrol program directed against drug smuggling and illegal alien entry.[3] By relying on information from its own sources, as well as from DEA, I&NS and Customs, the Coast Guard has the potential to fill a void in our current strategy against drug smuggling and the illegal entry of aliens.

Because of the current involvement of I&NS, the Customs Service and other agencies in air and sea interdiction programs, it is believed that OMB should establish separate task forces on air and maritime operations and the roles of participating Federal agencies. The air operations task force should determine the disposition of equipment and personnel associated with the Customs air program which is not supporting their patrol activities. The maritime operations task force should determine the "lead agency" for maritime patrol.

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[3] 14 U.S.C. §9 grants the Coast Guard a broad range of law enforcement authorities, i.e., to make inquiries, examinations, inspections, searches, seizures and arrests upon the high sea and waters over which the U.S. has jurisdiction for the prevention, detection and suppression of violations of U.S. law.

Resource Sharing

Each of the agencies operating in the border area has its own support system which assists it in accomplishing its basic enforcement mission. These support systems have many unique aspects designed to be responsive to the different missions of the agencies concerned. At the same time, each agency continues to augment and develop support systems independent of the efforts of the other agencies who are developing similar and often redundant capabilities. In short, if the problems involved were approached in an open-mined, cooperative spirit, there seems to be considerable potential for the sharing of certain support capabilities in the accomplishment of the basic law enforcement missions of all the agencies concerned.

Three areas which appear to offer potential for successful resource sharing are: (1) data systems, (2) communication systems, and (3) intelligence systems.

5. *It is recommended that OMB establish a "Border Data Support Systems Coordinating Committee" with representatives from Customs, DEA, I&NS and OMB. The Committee's purpose would be to develop effective systems for data interchange and prompt access to all proprietary systems so that any Federal enforcement officer operating on the Southwest Border would have rapid access to all available significant tactical intelligence information which might assist him in his work.*

Never before has the law enforcement agent had available such comprehensive, readily accessible sources of raw information. Since the advent of highly sophisticated data storage and retrieval techniques, each agency at the Southwest Border has developed its own data base to provide tactical and strategic support for its enforcement efforts.

The most widely used ADP system at the ports-of-entry is the TECS System.[4] This on-line data storage and retrieval system permits border inspectors to query the more than 160,000 records which relate to suspects and vehicles. The system is basically used by Customs inspectors, but at some ports-of-entry it is also available to I&NS inspectors. These files, located at the San Diego Data Center, are remotely accessed many thousand times daily resulting in 200-300 "hits" and approximately two arrests or seizures each day. About 80 percent of the records are drug offense related and therefore indispensable to the Federal drug enforcement effort.

Another data system currently used at the 973 locations where inspections occur is the I&NS Lookout Book System. Updated centrally every 21 days, this Book contains 58,000 phonetically arranged names of persons for whom the I&NS has established a "lookout." Persons listed in this system include immigration offenders; fugitives sought by the FBI, other Federal agencies and state and local law enforcement agencies; suspected subversives and/or espionage agents whose names have been furnished by the State Department, Department of Defense and the intelligence agencies. Although this "Soundex Book" is a manual data retrieval system, it is highly mobile and it requires an average of only about 5-12 seconds for an experienced officer to locate a name. Together with TECS, it offers the border inspector a valuable screening tool for discovering violators.

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[4] TECS, the Treasury Enforcement Communication System was formerly called CADPIN, Customs Automated Data Processing Intelligence Network.

A third system is the recently established Narcotics and Dangerous Drug Intelligence System (NADDIS), an on-line automated retrieval system which contains background data on drug offenders and criminal associates. Within the year, it is expected to contain 250,000 names and cross-references to case files in the system. Like TECS, NADDIS is being developed with the capability of accessing the FBI's NCIC criminal data files.

Ideally, each law enforcement officer along the border should have rapid access to data in all the above files.[5] To accomplish this, the names in the I&NS Lookout Book should be entered into both the TECS and NADDIS systems. The resulting system would permit the inspector at a port-of-entry to enter a name or a license number and determine whether Customs, I&NS or DEA has information concerning the entrant. Secondly, the designers of NADDIS and TECS should pursue their present plan to exchange machine readable *indices* of all names in their files thereby extending the available data base. Once completed, the inspector at the port-of-entry should be able to access with a single query all the data bases available on suspected major violators.

As for the vast border lands between the ports-of-entry, a similar data access capability could be developed without significant difficulty. It is anticipated that within the next several years it will be possible to access the TECS, NADDIS, or NCIC data bases from official vehicles through use of "mobile digital terminals." Initially integrated data access capability could be achieved if law enforcement officers along the border could radio the request to a sector communication center which would in turn query TECS, NADDIS and/or the FBI NCIC system for information on the suspect. This approach assumes some move toward a more integrated radio communications system for all Federal law enforcement agencies in the Border area and the presence of TECS and NADDIS terminals at the Sector switching centers of this system.

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[5] It is recognized that a small percentage of the data in each of the files is of critical sensitivity and should be released only to certain specific persons within the holding agency. In addition, trends in privacy legislation suggest that certain restrictions may soon be placed on data interchange between automated law enforcement data systems. These problems can be overcome with relative ease through use of flags, indices and lockouts.

The operational goal is to achieve common access to the several data bases and provide the Border enforcement officer with the capability to expeditiously access information about aliens, smugglers and other wanted persons which otherwise would be available only after long, tedious research efforts. This proposed consolidation of information and routine accessibility in no way implies the abolition of any agency's system or data base. Sharing data and access is no threat to the unique identity or continued separate development of the various agency systems.

In addition to the procedures described above, there is another potential use for the sharing of other data systems' capabilities. For example, Customs and IRS utilize a special money movement analysis system which, if made available to DEA, could become a significant enforcement tool in drug cases. Another Treasury system is used to analyze patterns on long-distance calls when telephone numbers are subpoenaed in certain kinds of cases.

It is felt that the above examples of productive sharing of data systems and certain parts of data bases would significantly enhance the effectiveness of all law enforcement efforts in the Southwest Border. A significant step toward achieving this cooperative interaction would be the creation of a working group within the proposed Data Systems Coordinating Committee. This working group should consist of technical representatives from each of the agencies operating along the Southwest Border.

6. *It is recommended that the Office of Telecommunications Policy (OTP) of the Government Communications Policy and Planning Council establish a committee with representation from the Federal Interagency Law Enforcement Telecommunications Group (FELT), Customs, DEA, and I&NS. It is further recommended that the committee give high priority to accomplishing the most effective interface of the communications systems (particularly the radio systems) of the Southwest Border enforcement agencies.*

Because of the transfer of considerable radio communications equipment from Customs to DEA as part of Reorganization Plan 2, many DEA agents in the Southwest are communicating via the Customs radio network. The Customs Sector Communications Network which covers the entire Southwest Border, California and parts of Florida is considered to be a technically advanced system. Its extensive repeater system and sophisticated communication centers provide a wide range of capabilities which effectively support Customs enforcement personnel. Each Customs communications center has access through data terminals to TECS and to the FBI's NCIC System.

It appears that the interfacing of the communications systems of the three Border enforcement agencies would provide the following advantages:

- It would permit the improved coordination of timely enforcement operations by facilitating interagency communications;
- It would permit the effective accomplishment of recommendation No. 5, i.e., the access of enforcement officials of each agency to the data bases of the other.

The institutionalization of a broad communications sharing and interface arrangement--which exists *de facto* today between Customs and DEA pending the implementation of DEA's planned system -- would require increased equipment and base manpower to support the increasing DEA, I&NS and Customs needs. There are numerous other technical problems associated with an extensive communications interface, but an initial consideration of the proposal suggests they are not insurmountable. ~~OMB~~ OTP should develop a charter for this interagency committee which clearly details certain objectives of this cooperative effort. At a minimum, the charter should include a commitment to the most economical development of future systems with a view to providing maximum communications capability for *all* enforcement agencies operating along the Southwest Border.

7. *It is recommended that DEA establish and direct the operations of a Southwest Border Intelligence Service Center which would provide for the most effective sharing of intelligence developed by border enforcement agencies. The Center would be staffed by representatives of DEA, I&NS and Customs.*

It is believed that a significant portion of all border violations are conducted by persons or groups involved in poly-crime activities, i.e., drugs, illegal aliens, contraband, currency manipulation, etc. In short, any activity which produces large economic returns, whether alien smuggling, drugs, or general contraband, appears to entice prospective violators.

While any one organization of the border enforcement agencies may have special insights into their principal area of interest, comprehensive evaluation of raw intelligence could develop deeper understanding of the overall thrust and extent of the criminal operations. "Soft areas," susceptible to penetration and manipulation, may become more visible when analyzed from a cross agency perspective.

The *Interagency Border Intelligence Service Center* would be charged with the responsibility to:

- consolidate, analyze and disseminate upon request all-source data regarding border related violations;
- identify conspirators and the scope and method of their activities;
- assess and evaluate border conspiracy operations;
- develop and maintain close coordination with the Southwest Border enforcement agencies so that a prompt response can be mounted for "hot" intelligence items developed by one agency which fall under the responsibility of another.

Because of the broad scope of DEA's drug intelligence responsibility, DEA would serve as the "lead agency" and would establish and direct the Center. The Center would be staffed by representatives of DEA, I&NS and Customs. After its establishment, consideration should be given to involving other Federal agencies which have interests in Southwest Border enforcment activities, i.e., ATF, Agriculture, Public Health Service, Coast Guard, FBI, FAA, and DoD. The Center would be centrally located and be primarily supportive of field agent activities on a 24 hour basis. Another principal function of the Center would be to facilitate information exchange between Washington and the field. The Center would have data terminals capable of accessing participating agency data bases and would have adequate communications equipment to provide the capability for timely dissemination.

Resource Augmentation

There are a number of areas where some carefully placed additional resources could have a significant impact on the effectiveness of enforcement operations along the Southwest Border.

8. *It is recommended that resource augmentation decisions for the Southwest Border enforcement agencies be considered in light of the "lead agency" and resource sharing concepts proposed in this paper.*

If the above recommendations are accepted, it seems imperative that future resource decisions be made with due consideration to the lead agency and resource sharing concepts. A general augmentation of border agency resources without the consideration of these concepts might lead to increased duplication of effort, exacerbate the confusion over enforcement roles and increase the incipient friction between the three law enforcement agencies.

With the exception of this general caveat, it is felt that any other resource decisions can and should be made through the regular budget process. Supplemental funding should be considered only when the resource issue is urgent or where the potential exists for an immediate program improvement as a result of a modest increase in resources.

Legal and Statutory Changes

There are a number of areas where legal or statutory changes would substantially improve the effectiveness of the border operations of both DEA and I&NS. While some proposals listed below are not aimed specifically at border operation, their adoption would substantially improve the border law enforcement effort.

9. *It is recommended that strong support for the rapid passage of H.R. 982 be continued by the Administration.*

The overall intent of this legislation is to eliminate job opportunities for illegal aliens and thus reduce the incentives for illegal entry. While penalizing employers is a viable way of reducing job opportunities for illegal aliens, H.R. 982 does have some deficiencies. The major problem centers on discovering illegal aliens who would falsely represent themselves to employers as U.S. citizens. Despite this difficulty, I&NS is in the process of drafting regulations and identifying tactics to implement the legislation, and I&NS strongly endorses its passage.

10. *It is recommended that a proposal be developed for a companion initiative to H.R. 982 which would authorize a limited work program for Mexican workers.*

While it is essential to strengthen the enforcement efforts of I&NS and to minimize the incentives for illegal entry, the impact of these programs on Mexico must also be considered. The Mexican government is publicly committed to securing a new "bracero" type program. If this desire of the Mexican government could be accommodated by a limited work program, certain concessions might be obtained from the Mexican Government. For example, the liberalization of the administration of the H-2 authority for the certification of temporary workers or the negotiation of a new but limited "bi-lateral agreement" with Mexico would illustrate the good will of the U.S. Government.[6] In return, the Mexican Government might be more willing to mount operations to eliminate the Mexican poppy and marijuana fields, increase their efforts to stop illegal border crossing, and acquiesce in the reinstitution of a stepped up U.S. program to repatriate illegal aliens apprehended by I&NS to the Mexican interior. This kind of *quid pro quo* arrangement would recognize the legitimate interests of both countries and might foster closer future cooperation on the issue of border security.

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[6] This is the diplomatic term which Mexico and the U.S. use to refer to a new work program of the "bracero" type.

11. *It is recommended that OMB take steps to ensure that Section 137 of Public Law 92-603 be implemented promptly.*

This law is aimed at controlling the issuance of social security account numbers. Its intent is to prohibit illegal aliens from obtaining social security cards and thus enhance the implementation of H.R. 982. The Social Security Administration published its proposed procedures for implementation in the Federal Register on August 7, 1973. However, no apparent action has been forthcoming since that time, and it is felt that continued OMB pressure would be helpful in bringing this provision of law into effective operation.

12. *It is recommended that the revisions of Title 45 of the Code of Federal Regulations to deny illegal aliens certain welfare benefits be fully implemented within state and local welfare programs.*

On November 21, 1973, Title 45 was revised to exclude specific Federal grants to state and local welfare programs which allow illegal aliens to receive benefits. The strict enforcement of these revisions will substantially decrease the incentives which have previously attracted illegal aliens. Disqualification of illegal aliens will also result in substantial savings for all levels of government. Again, it is felt that OMB interest and pressure would help induce HEW to move promptly and effectively on state and local implementation of its new regulations.

13. *It is recommended that the following actions be taken to increase the effectiveness of the Federal drug prosecution effort in the border area:*

    - *Strong Administration support for the rapid passage of H.R. 11844 which would enlarge the trial jurisdiction of United States magistrates to encompass additional misdemeanors, e.g., minor drug offenses;*

    - *The appointment of additional United States magistrates and full-time Federal drug prosecutors in the Southwest Border area;*

    - *The development of an LEAA-funded pilot program which would provide increased financial aid to state and local judicial systems to assist in drug prosecution efforts.*

Under subsection (f) of Section 3401 of Title 18, U.S.C., United States magistrates are permitted to handle only petty and minor offenses, e.g., misdemeanors with penalties not to exceed $1,000 in fines nor one year in jail. This does not permit the U.S. magistrates to have jurisdiction over drug offenses which, by law, require fines in excess of $1,000. However, if the proposed legislation is passed to increase their level of trial jurisdiction to $5,000, the magistrates could handle first offense, small quantity drug possession cases which are now creating backlogs in several border area courts. Much of the District Courts' workload could then be channeled to the magistrates, allowing the higher courts to devote more time to cases involving major offenders.

If H.R. 11844 passes, a majority of the minor offenses now tried (or waived) at the District Court level will be referred to the magistrates. These referrals, in turn, would increase the magistrates workload, requiring additional prosecutors and magistrates but hopefully there would be a commensurate increase in the effectiveness of the efforts against drug trafficking. In addition, due to the recent DEA decision to increase its force in the Southwest Border area by 100 agents, there will likely be a proportionate increase in the number of arrests and referrals for prosecution.

Currently, both DEA and the U.S. Attorneys are referring large numbers of minor drug related cases to the state and local prosecutors. This situation has created problems in the state and local courts which are ill equipped to handle the great influx of drug related cases. Because of the significant benefits of having certain drug cases tried in the state or local courts, some Federal funding effort might be considered to improve the operations of those state and local prosecutorial systems in the Southwest Border area.

14. *It is recommended that additional emphasis be placed on Mexican-U.S. drug enforcement activities by encouraging the Mexican Attorney General to augment his Federal forces along the Border with a contingent of well-trained, highly motivated, full-time drug enforcement officers.*

15. *It is recommended that Mexican authorities be assisted in developing cases against and prosecuting major Mexican traffickers by utilizing the formal channel of mutual judicial agreements, similar to the International Letters Rogatory, to facilitate the transfer of evidence seized in the United States; and by providing Mobile Operational Task Forces, special action projects, reward programs (posters, etc.), and other forms of aid to the Federales.*

The Mexican Police currently devote only a small percentage of their total time to drug enforcement activities. The assignment of a group of DEA trained Mexican Federales to full-time drug enforcement in the border areas would probably aid the drug investigative effort. It is conceivable that an agreement could be negotiated with Mexico whereby Mexican officers could be assigned to investigative duties in the United States.

The absence of conspiracy statutes and such penetration techniques as undercover agents or underworld informants has constrained the Mexican Government from developing a major effort against high echelon drug traffickers. To assist the Mexican Government's prosecution of traffickers, it is suggested that upon approval of the responsible U.S. Attorney, DEA agents should be routinely permitted to turn over an apprehended Mexican national and a portion of the evidence seized on the U.S. side of the border. This arrangement would provide the Mexican government with the evidence necessary to indict the suspect. In addition, information developed through interrogations might be useful in the development of a case against the defendants source of supply.

Under Mexican law, a Mexican national may be prosecuted in Mexico for crimes he committed in another country. Therefore, through the use of Rogatory Commissions the Attorney General of Mexico would be assisted in prosecuting Mexican citizens who are fugitives from U.S. Federal jurisdiction. In addition, Rogatory Commissions would permit evidence developed in the U.S. to be used in the Mexican Government's prosecution of Mexican drug suppliers.

PART VI

SUMMARY

The issues involved in the establishment of a secure border between the United States and its neighbors are complex. This analysis reviewed the current enforcement strategies of the Immigration and Naturalization Service and the Drug Enforcement Administration, assessed the effectiveness of enforcement and intelligence programs in the border area, and recommended measures to improve law enforcement and security along the border.

It is clear from the issues discussed in this report and from the recommendations made that substantial augmentation of agency resources will be required if the Southwest Border is to be effectively secured. A comprehensive sensor system and requisite manpower would be costly. Effective air and maritime investigation programs and the support technology for such efforts would be similarly expensive, and there are other areas where resource augmentation eventually will be needed if the United States is to have a truly secure border.

The problem of achieving a secure border is more than one of resource augmentation. It is one which requires recognition of the traditions of the United States as an open society and a country which has excellent relations and a spirit of cooperation and friendliness with its neighbors. The aspirations, socio-politico dynamics and sensitivities of Mexico and Canada are critical when considering a national strategy for a secure border.

It is not easy to integrate the strategies for an effective drug investigation program with the strategies for the control of illegal immigration and the interdiction of other contraband. The basic reason for this difficulty is that the border, while considered by DEA to be integral to its overall enforcement strategy, is in fact only one point in the world-wide grower-to-user chain. In contrast, the border is the key point in the interdiction strategies of I&NS and Customs for controlling the illegal entry of aliens and smuggling.

Nevertheless, it must be recognized that the tactics employed to implement the particular enforcement strategies of the Federal agencies in the border area should dovetail, and they should, therefore, be developed within the framework of an overall strategy. If the United States is to effectively secure its borders, it must develop viable programs to:

- *Reduce the incentives to enter the United States illegally or to smuggle drugs or other contraband across its borders;*
- *Respond to the legitimate concerns of Mexico;*
- *Secure the border physically;*
- *Improve port-of-entry operations.*

Reduce Incentives

There are a number of ways to diminish the incentive to enter the United States illegally or to smuggle drugs or contraband. They include:

- The passage of the Rodino Bill (H.R. 982) to discourage U.S. employers from hiring illegal aliens thus reducing the economic incentive for illegal entry into the United states;

- The reinstitution of large-scale "interior repatriation" of illegal aliens;
- The improvement of counter drug smuggling operations in Mexico, including negotiations with Mexico to undertake internal drug enforcement operations;
- The improvement of Federal prosecutive efforts including:
  - Granting more authority to U.S. magistrates;
  - Developing a more uniform drug prosecutorial policy by U.S. attorneys;
  - Increasing the utilization of state and local judicial processes;
  - Improving Federal support programs for state and local courts in the Southwest;
  - Developing a better appreciation for the impact of immigration case prosecution on border operations.

Respond to Legitimate Concerns of Mexico

The measures which would reduce the potential for illegal entry and for drug smuggling into the United States would also have a potentially negative impact on Mexico. Mexico would undoubtedly face a loss of foreign exchange adversely affecting its balance of payments.[1] Mexico is currently facing severe population pressure. A large mass of its population is in an age group that will shortly enter the labor market thus exacerbating the situation.[2] However, these demographic, economic and diplomatic considerations could potentially be addressed by:

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[1] At the time of the Bracero program, the remittance of wages by Mexican aliens working in the United States to their families in Mexico was the third major source of foreign exchange after silver and tourism. The flow of dollars from illegal aliens now working in the United States is considered still to be a significant factor.

[2] Roger C. Crampton, et.al., A Program for Effective and Humane Action on Illegal Mexican Immigrants, (Final Report of the Special Study Group on Illegal Immigrants from Mexico), U.S. Department of Justice, Washington, D.C. 1973, page 7.

- A negotiated but limited work program for Mexicans within the United States;
- Aid programs to help Mexico cope with its internal population problem;
- Technical assistance and training to help Mexico develop its own drug enforcement program;
- Operation of U.S. physical border security programs, e.g., barriers, repatriation programs, inspection procedures, etc., in a manner that avoids offense to Mexico and its citizens.

Secure the Border Physically

This report has detailed a number of methods which could be used to improve the physical security of the border. No matter what other tactics are employed, the level of physical security of the border must be improved if there is to be any significant improvement in the control of illegal entry of persons or of the smuggling of drugs or contraband between ports-of-entry. Key steps would be:

- Prompt and clear definition of the respective roles of each Federal enforcement agency which has responsibility for border security and drug smuggling;
- Completion of the I&NS sensor system to include 828 miles of the crossable border (72.5 miles have been completed to date);
- Augmentation of personnel to respond to sensor alarms;

- Development of an effective and adequately equipped air investigation capability by DEA;
- Improvement and integration of Federal law enforcement agency telecommunications systems;
- Improvement in the quality of Federal law enforcement agency intelligence programs within Mexico and the United States, including:
    - -- A more systematic approach to intelligence operations;
    - -- More effective intelligence targeting;
    - -- Better use of data systems by all agencies;
    - -- More operations by DEA, I&NS and Customs within Mexico with Mexico's approval for the collection of drug, immigration and other contraband and intelligence;
    - -- More interagency exchange of drug, immigration, and other contraband intelligence;
    - -- Better interagency communication systems to ensure timeliness of operational intelligence needed by law enforcement officers.

Improve Port-of-Entry Operations

This report has been limited to consideration of problems of law enforcement in the border areas *between* ports-of-entry. However, it must be recognized in the development of any overall border strategy that the improvement of DEA, I&NS, and Customs capacity to deal with problems between ports-of-entry will inevitably increase the pressure of attempted illegal entry and smuggling through ports-of-entry. This increased pressure must be countered with improved port-of-entry enforcement if a total strategy for border security is to succeed.[3] Areas not covered by this report, but clearly critical at ports-of-entry, include:

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[3] It is assumed that the establishment of improved control of smuggling through the ports-of-entry and across the Southwest land border between ports-of-entry would motivate smugglers to introduce increased quantities of drugs into this country aboard private airplanes and boats and across the Northern Border.

- Improvement in the inspection process, particularly in "primary" inspection procedures;
- Development of an effective program to counter the high incidence of illegal entry by use of counterfeit or altered documents as well as by imposters;
- Improved methods of cargo inspection to counter smuggling techniques, e.g., smuggling by containerized freight.

Conclusion

This report has highlighted many problems in law enforcement at or near the border, particularly the Southwest Border. There is a large job to be done in bringing the problems of massive entry by illegal aliens and large scale drug trafficking under control. The problems will be solved successfully only if decisions are made to address the critical issues highlighted by this report; if there is a willingness to recognize the true resource requirements implicit in the concept of a secure border; and finally, if the agencies concerned continue to work together in a spirit of cooperation and goodwill.

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WHITE PAPER
ON
DRUG ABUSE

September 1975

A REPORT TO THE PRESIDENT
FROM
THE DOMESTIC COUNCIL DRUG ABUSE
TASK FORCE

THE VICE PRESIDENT
WASHINGTON

September 29, 1975

Dear Mr. President:

I am pleased to submit for your consideration the White Paper on Drug Abuse prepared at your request by the Domestic Council Drug Abuse Task Force. The White Paper documents the principal findings of the Task Force, assesses the current extent of drug abuse in America and presents a number of recommendations for improving the Federal government's overall program to reduce drug abuse.

Drug abuse is one of the most serious and most tragic problems this country faces. Its cost to the nation is staggering: counting narcotics-related crime, health care, drug program costs and addicts' lost productivity, estimates range upwards of $17 billion a year. In addition to these measurable costs, the nation bears an incalculable burden in terms of ruined lives, broken homes and divided communities.

The Task Force believes that the optimism about "winning the war on drugs" expressed so eloquently and confidently only a few years ago was premature. It urgently recommends that the federal government reaffirm its commitment to combatting drug abuse and that public officials and citizens alike accept the fact that a national commitment to this effort will be required if we are to ultimately succeed.

The Task Force submits this White Paper in the knowledge that it does not provide all of the answers to solving the drug abuse problem. The issues are complex and changing and the Federal effort represents only part of the nation's total response. However, I believe that the recommendations contained in the White Paper provide a solid base upon which a re-invigorated national effort can be built.

The Members of the Task Force, the contributors to the White Paper and I appreciate the opportunity to have participated in this vital undertaking.

Respectfully submitted,

Nelson A. Rockefeller

The President
The White House
Washington, D. C.

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6. RECOMMENDATION SUMMARY

In the preceding chapters, the Domestic Council Drug Review Task Force has: (1) presented its assessment of the nature and extent of the drug abuse problem in the United States today; (2) evaluated current programs and policies designed to deal with drug abuse; and (3) made recommendations for improving the effectiveness of the drug program in the future.

While each recommendation is important in itself, it is the combined effect of all taken together that will produce a major improvement in the overall program to reduce drug abuse. Viewed as a whole, these recommendations underline and expand the themes discussed in Chapter 1; namely:

1. Total elimination of drug abuse is unlikely, but governmental actions can contain the problem and limit its adverse effects. We recognize that drug abuse is a long-term problem and requires a long-term commitment.
2. All drugs are not equally dangerous, and all drug use is not equally destructive. Enforcement efforts should therefore concentrate on drugs which have a high addiction potential, and treatment programs should give priority to those individuals using high-risk drugs, and to compulsive users of any drugs.
3. Efforts to reduce the supply of and the demand for drugs are complementary and interdependent, and Federal programs should continue to be based on a balance between these two concepts.
4. We must broaden existing programs aimed at supply and demand reduction. In supply reduction, greater emphasis should be given to regulatory and compliance activities aimed at curtailing diversion from legitimate production, and a higher priority should be given to increasing international cooperation in preventing the illicit production of drugs. In demand reduction, increased attention should be given to prevention and vocational rehabilitation.
5. Program management must be improved to ensure the maximum return from resources committed to drug programs. Better interagency coordination and stronger intra-agency management are required, with more attention paid to the setting of priorities.

6. The Federal Government should provide leadership in the national drug abuse prevention effort, but it cannot do the job alone. The support and cooperation of State and local governments, private businesses and community organizations are essential if we are to contain drug abuse and minimize its costs to the individual and society.

The major recommendations made throughout the white paper are listed below for easy reference.

DRUG PRIORITIES: CHAPTER 2

1. The task force recommends that when resource constraints force a choice, priority in both supply and demand reduction should be directed toward those drugs which inherently pose a greater risk—heroin, amphetamines (particularly when used intravenously), and mixed barbiturates.

2. The task force recommends that priority in treatment also be given to compulsive users of drugs of any kind.

SUPPLY REDUCTION: CHAPTER 3

1. The task force recommends that a continuous process of identifying the most vulnerable segments of the illicit distribution system be launched, and that resources be continually reallocated to focus on the most vulnerable portion of the system.

Enforcement

1. The task force, while endorsing the concept of a lead agency in drug law enforcement recommends that the law enforcement strategy be designed to fully utilize the resource of all organizations involved in law enforcement.

2. The task force recommends that Federal law enforcement efforts focus on major trafficking organizations and particularly on the leaders of those organizations.

3. The task force recommends that greater attention be given to development of conspiracy cases, which often are the only way to apprehend high-level traffickers. Detailed recommendations for accomplishing this are made in three areas: (1) Building understanding and commitment to conspiracy strategy; (2) inducing cooperation of knowledgeable individuals; (3) and developing long-term approaches to investigations.

4. The task force recommends that personnel systems which recruit, train, evaluate, and reward individual agents be adjusted so that they emphasize conspiracy investigations rather than simply the number of arrests.

5. The task force recommends that the Controlled Substances Units inaugurated by the Attorney General be continued and not diverted to other activities.

6. The task force endorses the President's proposal for mandatory minimum sentences for persons trafficking in hard drugs, and suggests that consideration be given to expanding the proposal to include traffickers of barbiturates and amphetaminies.

7. The task force recommends mandatory consecutive sentencing rather than concurrent sentencing for persons who are arrested and convicted for narcotics trafficking while on bail from another trafficking offense.

8. The task force recommends revoking parole in the event that a paroled offender is re-arrested on narcotics trafficking charges.

9. The task force recommends that the Internal Revenue Service reemphasize its program of prosecuting drug traffickers for violation of income tax laws under strict guidelines and procedures.

10. The task force recommends that the President direct the Attorney General and the Secretary of the Treasury to settle jurisdictional disputes between DEA and Customs by December 31, 1975, or to report their recommendations for resolution of the matter to the President on that date.

11. The task force recommends continuation and expansion of LEAA and DEA activities aimed at strengthening State and local law enforcement agencies.

Intelligence

1. The task force recommends that a new investigative report form be devised, with a number of questions aimed at eliciting information useful to other agencies.

2. The task force recommends an analysis of the four automatic data processing systems involved in intelligence activities, with an eye to either integrating or better coordinating them.

3. The task force recommends that DEA devote more resources to the analysis of intelligence, both strategic and tactical.

4. The task force recommends that the CIA's role should continue to be focused on the collection of strategic intelligence.

5. The task force recommends that users of strategic intelligence under the guidence of CCINC identify specific startegic intelligence requirements.

International

1. The task force recommends that a higher priority be given to development of international cooperation in preventing illicit production of drugs, and that special attention be given to Mexico as the major source country for U.S. markets.

2. The task force recommends that the U.S. government intensify diplomatic efforts to heighten other governments' concern over violations of international treaty obligations; and continue participation in institutions that promote international awareness of drug abuse.

3. The task force recommends the prompt ratification of the Convention on Psychotropic Substances of 1971.

4. The task force recommends continued support for the United Nations Fund for Drug Abuse Control, but urges that the Fund be encouraged to initiate a more aggressive fund-raising program.

5. The task force recommends continued support and participation in Interpol, and the Customs Cooperation Council.

6. The task force recommends that additional emphasis be placed on the collection, analysis, and utilization of overseas operational intelligence, and recommends that U.S. agents stationed overseas concentrate their activities on international trafficking channels believed to be headed for the United States.

7. The task force recommends that continued attention be given to crop substitution as a means of reducing the supply of raw materials used in making drugs, and believes that this should be one of the major focuses of the U.N. Funds' efforts.

8. The task force recommends creating a permanent DEA/Justice/State Committee under the Cabinet Committee on International Narcotics Control to coordinate efforts to seek U.S. jurisdiction over foreign drug traffickers through extradition or expulsion.

9. The task force recommends that the Opium Policy Task Force accelerate its evaluation of Papaver bracteatum as a substitute for morphine-based Papaver Somniferum in the production of codeine.

Regulatory and Compliance

1. The task force recommends several specific actions which will improve the program to control diversion at the wholesale level.

2. The task force recommends a major effort to upgrade the regulatory capabilities of States regarding retail diversion of drugs.

3. The task force recommends a program to improve the prescribing practices of physicians.

4. The task force recommends development by LEAA of pilot programs designed to curb pharmacy thefts.

Science and Technology

1. The task force recommends a specific set of priorities for the research effort; highest among these are projects aimed at providing better equipment for use in border interdiction, improving intelligence information systems, and better support and communication equipment for enforcement officers.

2. The task force recommends that research program funding be kept relatively steady from year to year to enable long-range planning and development.

treatment, and to determine relative effectiveness of different prevention, treatment, and rehabilitation approaches.

2. The task force recommends that NIDA formulate a plan for research, demonstration, and evaluation in consultation with other agencies involved in RD&E; those agencies should then develop their specific plans to supplement rather than duplicate NIDA's plan.

PROGRAM MANAGEMENT; CHAPTER 5

1. The task force recommends that the Strategy Council on Drug Abuse be given additional responsibilities to provide coordination between supply and demand reduction programs, and that the Assistant to the President for Domestic Affairs be made a member and designated as Chairman. The task force also recommends that the Secretary of the Treasury be added to the Strategy Council.

2. The task force recommends the creation of a Cabinet Committee on Drug Abuse Prevention chaired by the Secretary of the Department of HEW to provide coordination among agencies involved in drug abuse demand reduction activities. Membership of the CCDAP should include the Secretary of HEW, the Secretary of Defense, the Secretary of Labor, Administrator of the Veterans Administration, and the Attorney General.

3. The task force recommends that the Secretary of HEW appoint an executive director of the CCDAP who will serve as chairman of an Assistant Secretary level work group. This work group should be supported by a series of interagency functional groups which would provide detailed coordination in specific areas; e.g., treatment, education, prevention and research.

4. The task force recommends CCDAP be charged with preparing annually a government-wide assessment of drug abuse demand program requirements, and with publishing semi-annually a report on the status of drug abuse in the United States.

5. The task force recommends that DEA continue its corresponding lead agency role regarding law enforcement and regulatory programs, as designated by Executive Order No. 11727.

6. The task force recommends continuing a small Executive Office staff, located in the Office of Management and Budget, to provide assistance and advice to the White House staff, the Strategy Council, and OMB. The task force recommends that the responsibilities of the Office gradually be shifted to the departments, agencies and Cabinet Committees.

7. The task force recommends the creation of an interagency executive committee to improve the sharing, analysis, and coordination of drug abuse information at the Federal level.

APPENDIX

Comments of Department of the Treasury/U.S. Customs Service

Comments of Drug Enforcement Administration

Treasury/Customs Service Addendum to Domestic Council White Paper

The Domestic Council White Paper on Drug Abuse is a monumental effort and a valuable addition to assist the efforts of the United States Government to counteract a recent increased trend in narcotics trafficking and consumption. We nevertheless feel it desirable to indicate Treasury-Customs disagreement with some of the major conclusions in the law enforcement sections of the report. The conclusions which we address ourselves to in this addendum relate principally to the structural restrictions placed upon U.S. Customs Service by Reorganization Plan No. 2, but also address themselves to some degree to our relations with foreign countries in the effort to control drug trafficking.

Nothing in this addendum should be construed as criticism of any agency of Government. We believe that the present cooperation between the Drug Enforcement Administration and Customs is better than it ever has been, and may be as good as it can be *considering the prohibitions imposed upon Customs and the organizational imperatives of Reorganization Plan No. 2.* We feel that there will not be maximum coordination among agencies with enforcement or supply reduction roles as long as the Customs Service is prevented organizationally from realizing its full potential as an interdictor of drugs at the land and sea borders of the United States.

After more than two years of experience with the single agency investigation concept, it appears to us that the complete exclusion of Customs from intelligence gathering and investigative activities relating to narcotics smuggling has been counter-productive to the ovrall national narcotics enforcement effort. The current failure to pursue conspiratorial leads resulting from border seizures and arrests and the under-utilization of intelligence and investigative resources has created a major gap in a comprehensive narcotics enforcement program. The full utilization of Customs intelligence and investigative resources would be a positive step in bringing Federal narcotics enforcement effectiveness to its highest possible level.

In assessing what U.S. strategy should be, we must be flexible enough to adopt changes where necessary to assure utilization of all available U.S. resources and to give the U.S. Government maximum flexibility in obtaining foreign government cooperation for improving our overall effort. Together these steps could give the U.S. a greater chance to exercise real leadership in the global effort and promote our own interests.

Treasury, together with Customs, urges the following:

1. The lead agency concept under Reorganization Plan No. 2 should not be the basis for denying the U.S. Government diplomatic flexibility should special circumstances in certain countries dictate the marshalling of additional and available resources.

   What is needed is clear acceptance of agency roles and missions, full utilization of existing resources, skills, and statutory and regulatory authority to accomplish not only individual agency mission but to support each other's mission. Just as the Drug Enforcement Administration and other agencies have good relations with counterpart police officers in foreign countries, so the Customs Service has particularly close relations with its counterpart Customs Services in virtually every country, most of which are members of the Customs Cooperation Council. Since these foreign Customs Services are the principal repositories of information about smugglers in their countries, and since they generally prefer to deal with U.S. Customs rather than any other U.S. agency in the exchange of intelligence regarding narcotics, it would be most productive for the U.S. Customs Service to collect intelligence abroad on all types of smuggling, including narcotics. A limited additional number of Customs agents assigned overseas to investigate and collect intelligence on narcotics could contribute materially to enhanced enforcement capabilities at U.S. ports and borders.

2. The most effective and efficient means of interdicting the drug traffic is to seize the high-value, concentrated narcotics at the borders of the United States. The statutory authority of search and seizure possessed by the U.S. Customs Service is broader than that of any U.S. enforcement agency. Effective drug interdiction at the borders is dependent upon the gathering of intelligence abroad concerning potential shipments and the application of all enforcement tools to accomplish the actual seizures at the border.
3. Overseas both in manpower and funding may have limited impact in reducing the long-term availability of drugs in the U.S. so long as the world opium supply far exceeds demand. It is unrealistic to expect that the U.S. Government alone can effectively reduce the supply of illicit drugs from abroad by overseas effort in the foreseeable future. While the U.S. can provide the leadership, as important will be the efforts by the countries themselves to improve their anti-narcotics capabilities. We should a) advance the concept that recipient countries should become totally self-sustaining in the anti-narcotics programs now funded by the U.S.; and b) move toward the goal of "de-Americanizing" the overseas effort as rapidly as possible.
4. It appears essential that the scope of U.S. efforts in Mexico be broadened to encompass as many branches of the Government of Mexico as possible by utilizing incentives for favorable Mexican action. Action to that end should also contribute to greater flexibility in moving against funds used to finance drug trafficking. Reciprocal strengthening of U.S. enforcement efforts along the Southwest border is required as a clear sign of U.S. commitment to substantial drug supply reduction.
5. While assigning a high priority to treatment efforts may be required and beneficial, the United States can suffer only tragic consequences by practicing selective law enforcement. Enforcement must be even-handed and comprehensive to be effective and corruption-free. To diminish efforts against marijuana and cocaine can only erode further respect for law and law enforcement officers. Certainly, the fact that the United States is experiencing the highest level of contraband smuggling since Prohibition is an indication of the involvement of organized criminal elements utilizing the derived illicit profits for additional criminal activity. During the past 90 days, there have been seizures of 13 tons, 18 tons, 43 tons and 6 tons of marijuana and dozens of seizures exceeding one and two tons. These smuggling ventures have been by boat, airplane and every conceivable means. There is an unprecedented volume and scope of contraband smuggling activity which should not be ignored or de-emphasized by Federal law enforcement agencies.

Comments of the Drug Enforcement Administration

SUPPLY REDUCTION STRATEGY AND THE ROLE OF PRINCIPAL FEDERAL AGENCIES

As the White Paper correctly observes, the principal component of the Federal Government's supply reduction strategy is the law enforcement effort and related functions. The necessity of this activity is easily grasped by the public at large, but the successful pursuit of a strategic enforcement policy, the complexity of the factors involved, and the appropriate roles of the various Federal agencies is a matter poorly understood by those not directly involved. The White Paper has dealt with many of these issues and illuminated important strategy and policy considerations. There are, however, additional facets which are worthy of expression and which form the basis of this comment.

Basically, Federal enforcement efforts are divided into three distinct functional areas. These are interrelated by virtue of the single mission which each seeks to serve, but otherwise dissimilar in the sense that they represent a clear division of labor required for the efficient use of resources.

I. Investigation.

The first and most important effort is the aggressive investigation and apprehension of those individuals directly responsible for the organization of this illicit commerce. The activity of these persons, which spans continents and cultures, makes possible the maintenance of an illicit drug traffic with a continuity and volume which could not otherwise be sustained. Their identification and apprehension can form a strategic blow to the traffic, sharply reducing the continued availability of drugs.

In order to ensure that Federal investigative efforts are in fact targeted in this strategic fashion, it is necessary that a single agency with the total conceptual grasp of the problem be able to cull through the vast amount of intelligence and leads developed by itself and other Federal, state, and local agencies. Moreover, since much of the traffic in drugs is of international scope, it is necessary that this agency establish and maintain functional offices abroad in order to make possible the penetration of criminal organizations at both ends of the flow of traffic. It is at the foreign source and the domestic points of delivery where the greatest opportunities for penetration exist. Customarily, several weeks or more of advanced planning will be required in the foreign country to obtain the financial backing, to recruit couriers, and to plan for the concealment and smuggling of the contraband goods. This provides a number of opportunities for undercover penetration and surveillance by foreign police assisted by their U.S. counterparts.

By the same token, similar opportunities exist simultaneously within the United States, where those violators destined to receive the illicit drug shipment are reaching out for customers and co-conspirators to facilitate their eventual distribution.

Again, it is clear on the basis of reason as well as reference to past experience that a single agency must have total purview of the investigatory effort on both sides of the U.S. border in order to: (1) ensure appropriate targeting of investigatory resources, (2) achieve coordinated cooperation of both foreign and domestic investigatory efforts, and (3) make tactical decisions as to most favorable time, place, and circumstances to culminate the investigation with arrests, indictments, and seizures. This mission has been entrusted by the President and the Congress to the Drug Enforcement Administration, an agency of the Department of Justice created by Reorganization Plan No. 2 of 1973. It was the clear intention of the Congress and the President to create a single agency to pursue this particular form of the Government's effort.

A. History of Reorganization Plan No. 2.

Prior to its creation, this single function was fragmented between the Bureau of Narcotics and Dangerous Drugs and the United States Customs Service. This represented a counterproductive division which had existed at least since the founding of the Federal Bureau of Narcotics in 1930 and had often resulted in operational and jurisdictional disputes of a destructive nature. These problems were thoroughly documented in both the Senate and House reports and hearings in the Spring of 1973. Moreover, many years of experience had proven that the nature of these conflicts were such as to require a final and absolute organizational solution. It was in the light of this history and the demonstrated need to put an end to three decades of bureaucratic conflict that Reorganization Plan No. 2 was conceived and approved.

In Chapter No. 3, entitled "Supply Reduction," the White Paper references continuing disputes between the Drug Enforcement Administration and the U.S. Customs Service. These disputes are primarily concerned with the techniques for establishing working cooperation in the field and the exchange of intelligence between the two agencies. They are in some sense a residue of the jurisdictional conflicts of past decades. In our own opinion, these have been exacerbated in recent months because of the Customs Service's dissatisfaction with the jurisdictional determinations expressed in the Reorganization Plan and its hope of returning to the previous state of affairs as a result of the present study and similar inquiries being conducted by a Senate Subcommittee.

But both common sense and existing law mandate the continued centralization of investigative responsibility within a single agency to ensure the kind of total coordination which the President and the Congress desire and the use of enforcement resources in a strategic fashion on the basis of strategic standards.

The central point which we wish to emphasize here is that the plan itself contains no ambiguity but provides clear principles for the allocation of specific responsibilities on the basis of whether their essential nature relates to investigative activity as opposed to search and seizure functions to be performed by uniformed personnel.

II. Interdiction.

The second most important enforcement effort within the total Federal strategy is the interdiction of the flow of illicit drugs at the United States ports and borders. This function is allocated to the U.S. Customs Service and the Border Patrol of the Immigration and Naturalization Service. It is performed in a manner entirely unlike that of the investigatory function and is designed to achieve different but related objectives. These duties were expressly reserved to the Customs Service by Reorganization Plan No. 2 of 1973 in recognition of the importance of this task as a part of the Federal supply reduction effort. This effort will be most effectively served if the management of the Customs Service will concentrate its emphasis on this task rather than seeking to develop a secondary duplication of existing investigatory efforts.

III. Government-wide Support.

The third element of the Federal drug enforcement effort consists of the supporting efforts of various Federal agencies in accordance with the role appropriate to each. In other words, although Reorganization Plan No. 2 established a principal agency for the investigation of and collection of intelligence concerning the illicit drug traffic, it recognized that other agencies such as the FBI, IRS, ATF, and CIA could make unique contributions as a spin-off of the pursuit of their particular missions.

Additionally, non-enforcement agencies of the Federal Government frequently provide support which, although ancillary to their principal mission, is indispensable to a successful supply reduction strategy. For example, the Department of State has provided the diplomatic initiative necessary to procure the interests of foreign nations and to lay the ground work for the cooperation of DEA agents with their foreign counterparts. The CIA, as was noted in the White Paper, plays a valuable role in the collection of strategic intelligence in many foreign countries. The Department of Agriculture continues to provide valuable technical assistance in programs which envision crop substitution and eradication. The Federal Aviation Administration participates in DEA's El Paso Intelligence Center for developing intelligence concerning the traffic in drugs across the US/Mexican border. Finally, the Food and Drug Administration, as has been stated, participates in and supports many of the regulatory decisions designed to reduce the diversion of legitimate drugs.

IV. Conclusion.

DEA has established liaison and cooperation with each of these agencies and departments of government. Each provides a unique type of expertise not duplicated within DEA itself and in no sense representing discordant jurisdictional ambiguities. Thus, where the statutory divisions of labor are recognized and taken advantage of, the basis exists for establishing a team effort in which each can assist in achieving the Government's ultimate objectives. The DEA is committed to absolute cooperation and fulfillment of its role within the concept of interdepartmental teamwork called for by the White Paper. It is also committed by virtue of both policy and practice now in force to increasing the targeting of investigative resources at the major violators and organizations responsible for much of the traffic in illicit drugs. It is DEA's view that the perception of the correct supply reduction strategy as briefly summarized in this comment will clarify the understanding of the appropriate roles which each agency should play in the overall Federal effort. This understanding is the key to the elimination of the kinds of counterproductive and often petty bureaucratic tensions which have sometimes occurred.

BORDER MANAGEMENT AND INTERDICTION

- AN INTERAGENCY REVIEW -

September 7, 1977

THE OFFICE OF DRUG ABUSE POLICY
THE EXECUTIVE OFFICE OF THE PRESIDENT

PREFACE

This report summarizes the observations and findings resulting from a comprehensive review of Federal border control and law enforcement activities. The report concludes that a set of National policies exist in the form of laws, regulations and priorities regarding illegal aliens, drug smuggling, etc., but there is no effective mechanism to provide overall coordination of these policies as they affect border operations. This review does not discuss the merits of each policy, but addresses the way in which these policies are implemented and the resulting effectiveness of border management.

The review of border management was conducted under the guidance of the Office of Drug Abuse Policy (ODAP) in coordination with the Office of Management and Budget. The Review Team was an interagency working group of representatives from the principal Departments and Agencies involved with control of the borders of the United States.

The Departments of Justice, Treasury, and Transportation, the Customs Service, the Immigration and Naturalization Service, and the Drug Enforcement Administration provided full-time representatives to the Team. The Departments of State and Agriculture as well as Health, Education and Welfare and representatives of the U. S. Coast Guard and the Fish and Wildlife Service of the Department of the Interior contributed to the effort.

September 7, 1977

BORDER MANAGEMENT AND INTERDICTION

EXECUTIVE SUMMARY

An interagency Review Team, under the leadership of the Office of Drug Abuse Policy, conducted a comprehensive review of Federal border control and associated law enforcement activities. The basic assumption is that improved effectiveness of border control will enhance all related programs (drugs, aliens, guns, revenue, etc.), as opposed to the traditional, but self-limiting response of dedicating resources to a single purpose.

The report describes the vastness and distinctness of our border areas, as well as the operation of land, sea and air ports of entry. Many problems associated with effective law enforcement at ports of entry and with patrolling between ports are attributed to past and present practices of dealing with border management in a fragmented manner. The current organizational structure contributes to the problem with personnel from eight agencies representing seven different departments directly involved in border operations.

The two principal functions of border control are inspection of persons and goods at ports of entry, and patrolling between ports to prevent surreptitious entry. The principal agencies involved in these key functions are the U.S. Customs Service (Treasury) and the Immigration and Naturalization Service (Justice). Other agencies provide support and specialized skills in their areas of responsibility.

After a thorough problem analysis, two major issues are identified; overall lack of coordinated border management, and the overlap and duplication of effort in the principal border control functions. The principal overlap and duplication is in the patrolling between land ports of entry (Immigration and Customs) and in the primary inspection at ports of entry (Immigration and Customs). Massive workloads and duplicate management systems compound the problems.

Several options are considered, ranging from assigning budget priority to selected functions to creation of an expanded border management agency. The report concludes that a revised management structure is needed which can achieve maximum effectiveness with available resources, respond to changing priorities, and provide adequate border control, as well as better service to the public. Further, the first phase of any reorganization should be directed at correcting the fundamental problems. From this basic foundation, border management can evolve toward further improvements in effectiveness and efficiency.

The Review Team recommends a consolidation of the Customs Service and the Immigration and Naturalization Service into a border management agency to provide central management over the key border functions and resources. Specific criteria are suggested to minimize opposition and turbulence associated with reorganization.

Comments received from the departments and agencies involved in border operations reflect general agreement with the findings, but lack agreement regarding which department should have responsibility for a new border management agency.

The President's Reorganization Project in the Office of Management and Budget (OMB) has responsibility for developing specific reorganization plans and the Office of Drug Abuse Policy will assist OMB in developing any reorganization plan related to this review. Additionally, the report will be used in conjunction with other policy reviews in preparing a new Federal drug abuse strategy.

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BORDER MANAGEMENT AND INTERDICTION

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CHAPTER 1 - INTRODUCTION

BORDER MANAGEMENT AND INTERDICTION

PURPOSE

This report summarizes the observations and findings resulting from a comprehensive review of Federal border control and law enforcement activities. The review was designed to meet the following objectives:

- To review Federal policies and management of resources committed to control of the land, water, and air borders of the United States and to assess their effectiveness.
- To review operating policies, procedures and practices to identify areas where potential exists for improvement in effectiveness, efficiency or economy and to make appropriate recommendations.

BACKGROUND

Conducted under the guidance of the Office of Drug Abuse Policy (ODAP) and in coordination with the Office of Management and Budget (OMB), this is one of a series of policy reviews of all Federal drug abuse functions conducted under the provisions of Public Law 94-237.

In establishing the Office of Drug Abuse Policy, the President asked the Director to "assume the lead role in studying and proposing changes in the organization and management in Federal drug abuse prevention and control functions, as part of my promise to reorganize and strengthen Government operations."

The Federal effort to reduce the availability of illegal drugs is directed toward disrupting the supply chain at any point where it may be susceptible; from crop eradication in the foreign countries of origin to disrupting domestic interstate drug trafficking networks. The U.S. border provides a unique opportunity in this chain of drug trafficking to intercept the drugs, arrest the person and, perhaps, to trace the source or ultimate destination of the contraband.

Therefore, the interdiction of drugs as they are smuggled into the United States is an important function in the overall Federal program for controlling illegal drugs.

Border management is a piecemeal activity with numerous Federal agencies responsible for various functions. Numerous studies of segments of border management have been conducted in recent years. However, these studies have focused on a specific function or problem rather than taking a comprehensive view of the entire border control problem.

ODAP and OMB agreed that as part of the President's goal to achieve greater effectiveness in Government operations, attention should be directed towards a broad and long-term goal of improving the management of the overall border effort. Therefore, this review addresses all border law enforcement activities and other Federal functions and resources associated with border control. Any reorganization proposals made to the President related to this study will be made by the President's Reorganization Project of OMB, with the full participation of ODAP and any affected departments and agencies.

THE PROCESS

The team reviewed the functions necessary to border management and collected a comprehensive listing of problems having an adverse impact on operational effectiveness. A "new start" approach was developed which viewed the requirements for border management as if there were no organizational structure. The existing system was then compared to the hypothetical system.

Extensive field trips were conducted to test the analysis and to obtain current observations of border enforcement operations. These observations were considered in developing team findings and potential options for improvement.

A draft report was then furnished to the departments and agencies for comment on the options. Their views were incorporated in the final report.

SOURCES OF INFORMATION

Previous studies of border management were used as background to minimize duplication of effort. However, no prior conclusions or recommendations were accepted unless they were revalidated as part of the current review.

Conversations were held with representatives of numerous agencies involved with border enforcement operations, including the Immigration and Naturalization Service, the U.S. Customs Service, the Drug Enforcement Administration, the U.S. Coast Guard, U.S. Attorneys, Canadian inspectional services, the Royal Canadian Mounted Police and the El Paso Intelligence Center operated by the Drug Enforcement Administration, as well as with inspection and patrol personnel along the borders. Additionally, the Air Interdiction Program was discussed at the North American Air Defense Command at Luke Air Force Base in Arizona and with the Airborne Warning and Control System (AWACS) Project Manager at Tinker Air Force Base, Oklahoma.

Officials were interviewed on a non-attribution basis to assist the Review Team in receiving a frank and objective view of internal management problems and interagency relationships. The broad experience, objectivity and dedication of the team members contributed significantly to the analysis process.

CONTENT

This report contains a description of our borders which goes beyond the physical characteristics to address the nature and philosophy of borders. Through a presentation of the various functions necessary to meet border control requirements and of the Federal agencies currently performing these functions, the complexity of controlling our land, sea and air borders is described.

The report then identifies those problems and issues which are sufficiently important to demand Executive Office consideration and presents a discussion and alternative solutions to these problems.

CHAPTER 2

OUR BORDERS AND THEIR CONTROL

A. BORDERS AS AN INSTRUMENT OF NATIONAL POLICY

Border control is not simply a matter of regulating the international flow of persons, merchandise, and carriers. Borders define a political entity and their control expresses a national definition and purpose -- legally, economically, environmentally, and even philosophically. Thus, borders are important as an instrument of national policy.

In our world of both highly industrialized and underdeveloped countries, limited resources, and expanding populations, border policies may have a dramatic international and domestic impact. Rapid long distance transportation and communications have changed the nature of the borders, but the requirement to control the entry of persons and material continues.

Nations develop border policies which both protect and further domestic goals and interests and project a constructive international image. The two extremes of border control range from a totally open border to a totally closed one. Either extreme would have a major impact on domestic activities and international relationships. Most nations have intermediate policies which reflect their current interests and which change over time to reflect new situations.

The United States has a generally unstated border policy which attempts to enhance the flow of beneficial ideas, goods and people to this country while simultaneously limiting illegal entry. However, these interests tend to compete with each other in actual implementation. Measures to keep out the harmful inhibit the passage of the desirable, and vice versa. Therefore, a balanced policy of selected enforcement measures is necessary to keep out the most serious threats to our Nation while facilitating international relations and commerce.

Historically, the U.S. Government has responded to border management problems in a fragmented manner. As a crisis occurred or a major National program was threatened, resources and manpower were allocated to deal with the immediate problem. Border management has been addressed piecemeal without deliberate considerations of how changes in one segment may affect border policy and management as a whole. Special interests have grown around the specific commodities or organizations and they are not receptive to any effort which is perceived to endanger their priority for attention or resources. As a result, our present border agencies are basically a set of activities directed at a single purpose or commodity, e.g., immigration, customs, public health, agriculture, wildlife.

B. THE DISTINCTNESS OF THE BORDER AREA

The concept of the border and border policy is broader than a series of laws, regulations and operations applying to a political boundary. To millions of persons living in and near our land borders, the border is a way of life, a third world distinct in character from the interior of either of the adjoining nations. Border ties are far more complex than demography and geography might dictate. There is a border culture encompassing the arts, family ties and language. There is a border economy intertwining industry, agriculture, tourism, services and trade. Larger border cities adjoin each other on opposite sides of the border where it is a way of life to cross the physical border regularly, often several times daily, to shop, visit with family and friends, enjoy recreation opportunities, or to work. This tradition is manifested in our law which facilitates the movement across both the Mexican and the Canadian borders.

In many areas along the Canadian border, the international boundary bisects a playground, and children play a ballgame in both countries at the same time. Next door neighbors are in different countries with the backyard fence marking the international boundary. Along the Southwest border, the theory of AZTLAN (the Aztec word for the territory encompassing Northern Mexico, California, New Mexico, Arizona, Texas and parts of Colorado) persists, maintaining that "rights" exist to access this border territory which should not be violated by artificial political boundaries. This unique cultural affinity and economic interdependence of border communities must be considered as an integral part of our border policy and management of our borders.

C. DESCRIPTION OF OUR BORDERS

1. GENERAL

The borders of the United States are long and complex. In addition to extensive land and sea borders, the advent of international air travel extended the geophysical features of the border, creating interior borders of points of arrival for international travelers and cargo. The roughly 96,000 miles of total land border and coastline present many diverse elements in terms of geography, workload, and problems faced as they adjoin Mexico, Canada, the seas, or as they extend to international airports in the interior.

2. SOUTHWEST LAND BORDER

a. Geographic Description: The almost 2,000 mile border adjoining Mexico varies from rolling hills, international lakes, rugged mountains, vast deserts, wasteland, and thick brush to cultivated farmland immediately adjacent to the border on both sides as it extends from San Ysidro, California, to Brownsville, Texas. In many areas, twin border cities exist. Typically, these twin cities are interdependent and the border ports of entry provide a mutual link to facilitate shopping, entertainment, recreation and visiting. High chain-link fencing marks the border for some 26 miles through five of these border cities, but elsewhere, the border is a barely discernible line between concrete boundary markers. Although the Rio Grande River forms approximately half of the border, it does not present a significant physical barrier because it is narrow, shallow and slow-moving much of the time. The weather along the Southwest border varies from hot and dry to cool and rainy but is temperate most of the year.

b. Workload: Legal traffic, including some 50 million vehicles, 170 million persons, and an enormous volume of cargo annually comes through 24 ports of entry and over 14 rail lines. Another 1.5 million persons are apprehended annually as they attempt illegal entry at or between the ports of entry.

c. The Problem: The Southwest land border has historically posed a unique problem to law enforcement agencies attempting to control that area. Nowhere else in the world does a greater difference in per capita income exist between two adjacent nations than between Mexico and the United States. Mexico is among the fastest growing nations in the world, with extreme population pressures, especially in the border cities. The standard of living and the economy of the United States have attracted millions of Mexicans who have migrated to the border area in Mexico and then on into the United States. Additionally, in recent years Mexico has become the chief source of heroin smuggled into the United States.

This influx of illegal entry and smuggling of all forms of contraband and aliens from Mexico into the U.S. has exacerbated Southwest border enforcement problems. Although in many areas the natural terrain serves to channel much of the illicit flow of people, drugs and other contraband, illegal crossings are made all along the border.

Within the ports of entry, a similar problem occurs because of the enormous inspectional workload of persons, vehicles, and cargo along the Southwest border. Smugglers use a variety of ingenious modes and tactics for smuggling aliens, merchandise, or narcotics into the U.S. The use of hidden compartments in conveyances or merchandise, and the intentional mislabeling of merchandise are common. Additionally, thousands of persons who are not qualified to enter the United States attempt to do so at the ports by presenting fraudulent documents or by misstating the purpose of their visit. In addition to efforts to stem these attempts at the illegal entry of aliens, drugs and merchandise, there is also a major effort to facilitate the entry of legal traffic and to ensure that cargo arriving by rail and truck complies with revenue laws and other Federal requirements. These factors, both at and between the ports of entry, make the Southwest border a particularly complicated control problem.

3. THE NORTHERN LAND BORDER

a. Geographic Description: The 4,000 mile long Northern border is called the longest undefended border in the world. Terrain varies considerably from mountains, to vast expanses of great plains, the Great Lakes, rolling farmland, and forests. The weather is far more variable than that on the Southern border, with sub-zero temperatures and several feet of snow prevalent several months of the year. In contrast, in the summer much of this same border region becomes a major recreation area and attracts millions of people annually.

b. Workload: Some 30 million vehicles and 80 million persons enter annually through the 94 ports of entry along the Northern border. Additionally, numerous small waterports (primarily on the Great Lakes) are located along the border.

c. The Problem: Although the illegal entry of aliens, narcotics, and merchandise pose a problem along the Northern border, the magnitude of the problem is much less than that encountered along the Southwest border. Even though the numbers of illegal entries may be small, border control is still required to protect the interests of the United States as well as those of the States along the border. The greatest problem on the Northern border is the vastness of the border and the limited manpower available to cover it.

4. SEA BORDERS

a. Geographic Description: The U.S. seacoasts include the long Pacific and Atlantic coastlines, the Gulf coast from Florida to Texas, the St. Lawrence Seaway, the Great Lakes, Alaska, Hawaii, and Puerto Rico, the Virgin Islands of the U.S., Guam and American Samoa. The coastline is comprised of countless inlets, bays and thousands of miles of inland waterways.

b. Workload: The Nation's seaports and sea borders are a significant part of the overall border activity. Representing the bulk of $250 billion in import and export trade, 160,000 vessels arrive at our seaports each year carrying 3 million crewmen and passengers to the U.S. In addition to the required inspection of people and cargo, several special navigation laws must be enforced regarding the reporting of the arrival of vessels.

Special regulations have been developed to reduce the enormous inspection workload by facilitating local traffic by boat along the Northern border waterways. For instance, crewmen of Great Lakes vessels and ferries operating between Canada and the United States are inspected for immigration purposes only once each year, on their first arrival each spring.

c. The Problem: Our sea borders are frequently used to evade the established importation controls and the prohibitions against specific items such as drugs. Additionally, stowaways or alien crewmen deserting ship are common problems. The inherent difficulties of searching vessels for these persons or merchandise present a unique enforcement problem. Ingenious methodologies for concealing drugs and contraband have been developed by smugglers. Items can be concealed in cargo, in the vessel itself, below the waterline of the ship, dropped overboard, or on the persons of crewmembers or passengers. To combat the wide range of smuggling activity requires special skills and techniques on the part of Federal law enforcement agencies. Pilferage of imported cargo at waterfront locations is a traditional problem to carriers, importers and insurance companies.

Hundreds of thousands of arriving private yachts and small boats have also become a major law enforcement problem. Along the Florida/Gulf and Southern California coasts these vessels are capable of reaching foreign ports and returning to U.S. ports anywhere on the waterways. This technique is a relatively safe way to smuggle aliens, contraband, or narcotics because of the volume of small boats in these areas and the comparably small law enforcement presence to combat illicit traffic.

5. AIR BORDERS

a. Geographic Distribution: Arriving international passenger and cargo flights are inspected at over 50 international airports of varying size scattered across the country. The majority of international air arrivals are centered in thirteen major international airports: J.F. Kennedy, Miami, Honolulu, Los Angeles, O'Hare, Logan, San Juan, San Francisco, Houston, Philadelphia, Dulles, Dallas, and Seattle.

b. The Workload: In recent years, the number of international flights has increased dramatically. Large numbers of inexpensive package tours and charter flights have become available for travel to all parts of the world. During the past decade, air arrivals have grown at the rate of eight to ten percent per year. Annually, 20 million persons and huge volumes of air cargo arrive in the United States on 350,000 commercial, military and private flights. To help reduce some of the pressure at the overcrowded U.S. international airports, some 4 million passengers and their baggage are precleared at selected foreign locations for both commercial passenger and military flights.

c. The Problem: Air arrivals pose a considerable risk of illegal entry of aliens, contraband, agriculture pests, and drugs. The alien visitor arriving by air who intends to violate his legal status is generally more sophisticated than the land border crosser. He usually has money to sustain his visit and can blend easily into city populations, find employment and remain illegally. To further complicate the inspection, many aliens and U.S. citizens attempt to bring forbidden or undeclared merchandise or illegal drugs into the United States. Under the pressures of long lines of passengers waiting for inspection, the need for a thorough inspection must be balanced with the need to facilitate the entry of U.S. citizens, legal aliens and their baggage.

Inspection of air cargo is subject to the same pressure to facilitate entry. Because of the premium freight charges, air shippers expect Federal inspectional agencies to show a concomitant interest in the quick release of the merchandise to the importing public.

During the past decade, there has been increasing use of private aircraft for smuggling drugs, contraband, and aliens. The use of aircraft enables the smuggler to cross the border at a time and place of his own choosing and with a minimal risk of detection or interception. The Southern border is a natural gateway for smuggling by air. There are thousands of landing fields or suitable isolated landing places within a short distance of each side of the border. The thousands of legal air crossings occurring each month offer the smuggler even further concealment from detection. Interdiction of illegal entry by air is difficult. Development of intelligence and use of the short and long range radar capabilities of the Federal Aviation Administration (FAA) and the North American Air Defense Command

(NORAD), mobile ground radar, airborne radar in patrol and pursuit aircraft all contribute to interdiction efforts. Current estimates indicate that some 4,000 to 6,000 illegal smuggling flights are crossing the Southern border each year.

D. PRINCIPAL AGENCIES WITH BORDER INTERESTS

Presently eight agencies representing seven cabinet departments have a physical presence in border operations and enforce over 400 Federal laws and regulations involving entry and departure of people and goods across the border. This diversity of organizational response is a reflection of the multiplicity of problems inherent in border control. Protection of agriculture and industry, control of immigration and illegal entry, and detection of drugs and other contraband are some of the contributions to the constant problem of border control which has manifested itself throughout our history.

The Immigration and Naturalization Service (INS) and the U.S. Customs Service work side by side in enforcing laws and providing service to people and goods entering the U.S. They face many common problems and use many common techniques while pursuing their individual enforcement goals. The U.S. Coast Guard is also responsible for law enforcement and service to the public, but works in a different element, the high seas and U.S. waters. A number of other agencies have an interest in and participate in border operations. These include the Drug Enforcement Administration of the Department of Justice, the Animal and Plant Health Inspection Service of the Department of Agriculture, the Center for Disease Control in the Public Health Service (HEW), Fish and Wildlife in the Department of the Interior, and other investigative agencies. These agencies routinely support and are supported by each other. The Review Team focused on the functions performed by these agencies to include how they complement or conflict with each other and how overall effectiveness might be improved.

Following are brief descriptions of the Federal agencies with border management responsibilities. All of these agencies or activities have varying degrees of border and interior responsibilities. The personnel and budget data represents the total for both responsibilities. Attached to this report is a more complete description of the principal agencies as submitted by the individual agencies. (See Appendices)

AGRICULTURE

Animal, Plant Health Inspection Service

Prevents the entry of foreign plant and animal pests and the introduction of plant and animal diseases through the inspection of imported plants and plant products and animals and animal products. Provides export certification of the same.

FY 1977 Budget: 650 Positions, $24.8 million (plus 177 man years and $4.3 million for veterinary services)

COMMERCE

U.S. Travel Service

Works with U.S. Government agencies to reduce official barriers to international travel.

FY 1977 Budget: 141 Positions, $14.6 million

HEALTH, EDUCATION, AND WELFARE

Public Health Service

Prevents the introduction, transmission and spread of communicable diseases from foreign countries into the United States, and supervises the medical examination of aliens abroad seeking admission to the U.S. and aliens in the U.S. applying for permanent residence.

FY 1977 Budget: 53 Positions, $1.9 million

INTERIOR

Fish and Wildlife Service

Monitors the importation and exportation of all wildlife and parts of wildlife through the use of wildlife inspectors and criminal investigations.

FY 1977 Budget: 271 Positions, $8.6 million

JUSTICE

Drug Enforcement Administration

Provides a leadership and coordination role in narcotics and dangerous drug suppression programs at the National and international level and develops overall Federal drug enforcement strategy, programs, planning and evaluation.

FY 1977 Budget: 4,365 Positions, $168.3 million

Immigration and Naturalization Service

Controls entry and stay of persons into the U.S. by inspection of persons to determine admissibility; adjudication of requests for benefits under the law; prevention of illegal entry; investigation, apprehension and removal of illegal aliens; and the examination of applicants wishing to become citizens through naturaliization.

FY 1977 Budget: 9,452 Positions, $244.5 million

TRANSPORTATION

U.S. Coast Guard

Exercises plenary jurisdiction over all violations of Federal laws upon the high seas and U.S. waters; renders aid to persons and property in distress on, over, and under the high seas and waters of the U.S.; facilitates the safe and expeditious passage of marine traffic in U.S. waters; prevents environmental harm to navigable waters and adjacent shore areas; and maintains an effective and ready armed force.

FY 1977 Budget: 45,336 Positions, $1.4 billion

Federal Aviation Administration (Support Only)

Regulates air commerce and assures its safe and proper development; ensures the safe and efficient use of the national airspace; develops and operates a common system of air navigation and air traffic control for both military and civil aviation; assists in the development of an effective national airport system; and does all these things with due regard to the safety, environment and economic factors involved.

FY 1977 Budget: 75,626 Positions, $2.6 billion

TREASURY

U.S. Customs Service

Protects and collects revenue of the U.S. from imports by inspection of baggage and cargo imports, prevention of contraband smuggling, investigation of import violations, and enforcement of border-related laws of other Government agencies.

FY 1977 Budget: 14,707 Positions, $359 million

CHAPTER 3

FUNCTIONS

A. GENERAL

The principal enforcement functions at the border are:

- Inspection of people and goods crossing the borders.
- Patrolling land borders between ports of entry, at seaports and air and marine patrol.
- Investigation or follow-up on illegal acts and violators.

These functions are supported by communication and computer systems, as well as administrative activities. In addition, the assessment and collection of duties produces $5 billion annually. While other activities such as processing of immigration applications, naturalization procedures, and drug trafficking and fraud investigations may not be performed at the border, they are tied directly to border interests.

Each function and related activities are described in this chapter, followed by Review Group findings. No attempt is made to repeat the quantitative analysis contained in other recent reports regarding the level of threat or the relative priority of functions.

B. THE INSPECTION FUNCTION

The inspection function is performed at air, sea and land ports of entry by inspectors of five different agencies from five different departments.[1]

- Customs (Treasury)
- INS (Justice)
- Animal and Plant Health Inspection Service (Agriculture)
- Public Health Service (Health, Education, and Welfare)
- Fish and Wildlife Service (Interior)

[1] Representatives of the U. S. Travel Service (Commerce) are also present at some ports of entry to greet arrivals and serve as interpreters. However, they do not perform inspection.

1. (a) Purpose: The purpose of inspection is to determine the admissibility and conditions of entry for arriving persons and cargo. The object of the inspection may be a person; baggage; a vehicle, vessel or aircraft; or cargo and the container in which it arrived. Customs and INS are the principal inspection agencies.

The individual inspector must be cognizant of the functions and requirements of the various agencies. However, inspectors place greatest emphasis on the specific laws and regulations of the agency which they represent. At land borders, inspectors are cross-designated with the authority of all involved agencies to allow them to do a full range of inspection as required. The inspection function is designed to be responsive to a number of potential threats to the economy and well being of the United States.

(b) Immigration Threats: The United States prohibits some persons from entering the country, such as known terrorists, narcotics violators, anarchists, etc. Immigration quotas exist and must be enforced. On the other hand, foreign tourists are encouraged to visit, providing they depart the country at the scheduled completion of their visit. The Immigration Inspector examines the arriving persons to determine if they are aliens and, if so, determines whether they can be admitted and under what conditions. He must also identify and exclude those aliens who attempt to enter with fraudulent documents or false claims. Four hundred thousand immigrants enter the United States each year. An additional 14,000,000 alien visitors have immigration controls placed upon their stay and 269,000,000 people are examined on entry.

(c) Health Threats: Historically, the first uniformed inspector that an arriving person met was a Public Health Inspector. The inspector asked questions and examined documents regarding immunizations, x-rays, places visited and visually examined the person to determine if his entry would pose a public health problem. The present strategy is to support the elimination of disease overseas, rather than attempt to stop it entering the country by assigning hundreds of inspectors to ports. Immigration inspectors perform the Public Health interrogation and visual inspection. Public Health provides only a small backup force at selected ports.

(d) Customs Threats: The Customs inspector is responsible for preventing the entry of narcotics and other contraband through the ports of entry. Customs inspectors examine baggage and vehicles and collect duty on certain imported articles carried by arriving persons. Arrivals are questioned regarding things they are bringing with them and an intensive search of persons, baggage, or vehicles may be conducted ~~on a~~ selective basis. An inspection is also performed on all arriving cargo for the purpose of assessing duties or permitting free entry. Customs also enforces over 400 laws for 40 other agencies thus reducing the requirement for additional border inspection agencies. Over 475 million tons of cargo were processed in 1975.

(e) Agriculture Threats: A major economic threat to the United States is the possible entry of animal and plant pests and diseases that could prove disastrous to the U.S. agriculture. The Agriculture and Customs inspectors work together to detect any potential carrier of insect pests or disease.

(f) Endangered Species Threats: Laws aimed at protecting domestic and foreign endangered wildlife require that wildlife be accompanied by proper documentation to enter the United States. A small contingent of Fish and Wildlife inspectors as well as Customs and Agriculture inspectors enforce these laws. Additionally, the Fish and Wildlife Service uses Special Agents to inspect and clear fish and wildlife importations at various ports of entry.

2. (a) Process: The process of inspection differs from port to port and between different types of ports. Procedures also vary depending on whether the inspection station is at an air, sea or land port.

Fundamental to the process is the principle of primary and secondary inspection. Primary inspection is performed by the initial inspector who meets the arriving person. The arrival may be identified as low risk or with no complications and may be cleared immediately. If there is reason to require a more detailed inspection, the primary inspector will refer the arrival to a secondary inspector who completes the inspection. Reasons for referral may be:

- to detect and exclude fraudulent alien entrants
- to complete required forms
- to obtain specialized inspection assistance

- to conduct a detailed search for drugs or other contraband

- to collect duty on imported merchandise

(b) Land Ports of Entry Inspection: Cross-designated inspectors of both INS and Customs staff the primary inspection posts on both vehicular and pedestrian lanes. A few Agriculture Inspectors are also cross-designated and staff a small number of pedestrian lanes on the Mexican border. Primary inspectors have the authority to clear persons for entry or refer them for a more detailed inspection in the secondary areas of the appropriate agency. Temporary visitors, immigrants, suspect aliens, and border crossing card applicants are referred for Immigration secondary inspection. Referrals are made to Customs secondary for the collection of duty, baggage examination, and personal or vehicle searches. Potential health, agriculture or wildlife threats are referred to the appropriate office for secondary inspection.

(c) Airport Inspection: A two-stop inspection process is used at airports. The person initially is inspected for public health and immigration purposes by Immigration inspectors. All names of arriving persons are checked in an INS lookout book and appropriate controls are placed on all aliens. Referrals may be made to an Immigration or Public Health secondary area.

After clearing Immigration, passengers pick up their baggage and proceed to a Customs inspection area. A Customs inspector enters the traveller's name into the Customs automated lookout system, completes the inspection or refers the passenger to a secondary inspection. Referrals are made to Customs secondary for the payment of duty or for a more detailed search of the traveller and baggage.

(d) Seaport Inspection: Immigration inspection of passenger vessels is typically conducted by inspectors boarding the ship and performing crewman and passenger inspection prior to docking. Public Health inspection is accomplished by "Radio Practique," by which a responsible ship's officer reports the absence of disease among the crew. The Customs and Agriculture inspection is typically done at dockside with inspectors and patrol officers boarding the ship and searching for contraband. The hundreds of seaport facilities and different types of ships require a wide variety of inspection procedures.

(e) Preclearance Inspection: To reduce inspection workloads at U. S. airports and to facilitate travel, passengers departing by air for the U. S. are inspected by U. S. inspectors at selected locations in Canada, the Bahamas, and Bermuda.

FINDINGS - INSPECTION

1. Current low levels of staffing create significant problems in providing adequate inspection during peak arrival times. The result is a faster, less detailed inspection for each arrival.

2. Expanding the number of secondary inspections would improve the effectiveness of law enforcement at land ports of entry.

3. A more effective inspection process overall would enhance the entire border control effort.

4. There is a significant duplication of management overhead between INS and Customs at most ports of entry and added duplication of an Agriculture management structure at large ports.

5. Levels of interagency cooperation vary, but there is a general sense of conflicting priorities and less than full cooperation between agencies. Both personality conflicts and process conflicts appear to be magnified by the lack of personnel to meet the workload.

6. The most obvious inspection problems are the duplication of effort and management difficulties associated with the number of agencies present with separate responsibilities for portions of the inspection process.

7. A single agency responsible for the inspection process and for the entire inspection force would provide more flexibility in scheduling and a more balanced inspection program.

8. Single management would significantly improve primary inspection at land ports and could eliminate the current two-stop inspection process at airports.

9. There is a need for special expertise for the more technical secondary inspection. Even with single management, specialists in immigration, customs, agriculture, etc., will be required to handle referrals. However, this requirement for specialists could be met either by a limited number of secondary inspectors from the responsible agency or specialized career fields within a single agency.

C. THE PATROL FUNCTION

1. Purpose: The purpose of the patrol activity is to detect and prevent the surreptitious entry or smuggling of aliens or contraband into the United States. All persons seeking to enter the United States for any purpose are required to present themselves at a port of entry for inspection. Consequently, anyone crossing the border between the ports is entering the U. S. illegally. The patrol function is performed by the U. S. Border Patrol of the Immigration and Naturalization Service and the Customs Patrol of the U. S. Customs Service.

2. Process:

(a) U. S. Border Patrol: The U. S. Border Patrol guards the land borders as well as the Gulf and Florida coasts against the entry of persons without inspection and is charged with apprehending those who try to enter surreptitiously. The Border Patrol collects information and watches the rivers, land, and coastal border areas. They also intercept illegal border crossers by checking the various modes of transportation and maintaining traffic check points on highways leading from the border. Their aim is to prevent the illegal aliens from moving into the interior of the United States. The Border Patrol also checks employees of farms, ranches and industries in the border area and apprehends illegal entrants who have evaded detection and obtained employment.

Because of its substantial presence along the border, the Border Patrol interdicts significant quantities of marihuana and other contraband as a by-product of its primary mission. Many Border Patrol agents are cross-designated with Customs search and seizure authority. In areas where Border Patrol agents are not cross-designated, they exercise citizen arrest rights under state law to apprehend drug smugglers.

(b) Customs Patrol: The Customs Patrol's primary responsibilities are patrolling between the ports of entry to detect and prevent the smuggling of contraband and providing port security at ports of entry. Between the ports of entry, the principal tactic is to maintain surveillance at locations where smugglers of contraband are known to cross. To meet its port security function, the Customs Patrol is stationed throughout the United States at air, land and sea ports of entry. Customs Patrol Officers (CPOs) also operate air and marine interdiction programs which are discussed below.

Air and Sea Patrolling: Surveillance and interdiction of illicit air and sea traffic are two of the most complex and difficult tasks for Federal law enforcement agencies.

(a) Air Interdiction: The monitoring of illegal air traffic across the borders is a joint Federal effort with the Customs Air Patrol Units supplying the lead. Supported by the North American Air Defense Command (NORAD), the Federal Aviation Administration (FAA) and the El Paso Intelligence Center (EPIC), Customs currently provides our anti-smuggling air interdiction capability. NORAD, FAA and U. S. Customs mobile radar units are used in the detection and identification of aircraft crossing the border areas. Procedures have been developed with the FAA to require pilots to fly into designated airports along the Southwestern border or obtain previous Customs permission to overfly into the interior. Aircraft which fail to comply can be more readily identified and an interdiction may be attempted.

Smuggling by private aircraft has long been acknowledged as a major threat in the southern border area. The recent Domestic Council Report on the Southwest Border indicated that marihuana is the predominant drug smuggled by air.

A successful air interdiction program requires effective intelligence support. While the present air interdiction effort creates some deterrent effect, additional information on smuggling activities would allow the resources to be used much more effectively in apprehending the smuggler.

However, one of the principal objectives of the air program must be to determine the volume of illegal air traffic and its characteristics. The Air Force Airborne Warning and Control System (AWACS), is being considered as a possible source of additional air traffic information which might be collected during AWACS training flights. Customs is engaged in discussions with the Air Force to develop this potentially valuable support.

The Customs air support consists of 75 aircraft of mixed capabilities. Additional air-to-air radar capability combined with a better mix of aircraft would enhance the potential capability of air interdiction.

(b) Sea Interdiction: The Customs Patrol has responsibility for interdiction of smuggling attempts along the water borders of the United States. Customs maintains a small fleet of boats for their own use and has made a number of marine interdictions using radar aboard their boats.

The United States Coast Guard (USCG) is the lead agency for maritime law enforcement because it is the only Federal agency with plenary jurisdiction over all violators of Federal laws upon the high seas and waters over which the United States has jurisdiction. The Coast Guard has several primary missions other than law enforcement. Therefore, most Coast Guard personnel, vessels and aircraft are multi-mission oriented including such functions as enforcing the 200-mile limit for fishing rights; public safety; maritime assistance; aids to navigation; and pollution control. An estimated 10 percent of the Coast Guard's patrolling activities involve law enforcement.

FINDINGS - PATROLLING

1. The land, sea and air patrol functions are vital to successful border control principally due to their deterrent effect.

2. The U. S. Border Patrol on the Southwest border was observed to be highly motivated and skilled in interdicting larger numbers of illegal border crossers. However, their efforts are somewhat frustrated by the overwhelming volume of illegal aliens.

3. The Customs Patrol is doing an excellent job in the area of seaport security. While INS has responsibility for crew member control at seaports there was no reported conflict between the two efforts.

4. Along the Southwest border, the air interdiction function is a combination of patrol and investigative activities that are supported with a variety of sophisticated Air Force and FAA equipment.

5. The use of additional technologies, such as the Airborne Warning and Control System (AWACS) of the Air Force and expanded support by the Federal Aviation Administration can provide a more accurate picture of the amount of illegal air traffic.

6. A better mix of aircraft would be likely to provide a good return on the investment by increasing the effectiveness of the Customs air interdiction effort.

7. The U. S. Coast Guard was judged to be responsive to the needs of the existing border enforcement agencies. However, it was noted that the Coast Guard's law enforcement activities in support of the border control effort are only a small part of their overall responsibilities.

8. The major shortcoming in the patrolling function is the duplication of effort and lack of cooperation between the Border Patrol and the Customs Patrol on the Southwest border.

D. INVESTIGATIONS

Purpose: The purpose of the investigation function is to gather evidence leading to the prosecution of violators of U. S. laws. The analogy often used is the uniformed policeman and the detective. The uniformed policeman provides the physical presence to apprehend violators in the act and present a visible deterrent to wrongdoers. The detective in plain clothes is called in to investigate a specific case and prepare evidence for prosecution. The investigation function also supports border interdiction through the collection of intelligence.

Each agency involved in border law enforcement has its own force of criminal investigators (special agents). Customs, INS, DEA, and Fish and Wildlife have special agents who are located near the border, as well as in the interior of the United States. By definition the smuggling of drugs and contraband and the illegal entry of aliens are violations which originate outside our borders. The illegal activity continues throughout the border zones to interior destinations of aliens or distribution points for narcotics or controlled merchandise. The international nature of border crime assures that aliens are likely to be involved as either the victim or the violator.

1. Immigration and Naturalization Service

INS currently has some investigators assigned to the land border area. However, most INS investigators are located at coastal and interior cities with large concentrations of aliens and frequent sea and air arrivals from abroad. Investigators, usually responding to a specific report, apprehend aliens in the interior cities. Information gained from this activity, called "area control," may lead to major investigations involving organized crime and conspiracies.

Investigative emphasis is placed upon alien smuggling and fraudulent documents. Joint investigations with Customs or DEA may be generated when a multi-purpose smuggling conspiracy is involved. INS also investigates cases of fraudulent, criminal or immoral acts by aliens or suspect aliens seeking benefits through the adjudications or naturalization process.

The U. S. Border Patrol also uses investigative techniques in collecting information and pursuing alien smuggling in the vicinity of the borders. However, Border Patrol agents, rather than criminal investigators, are assigned these duties.

2. Customs Service

The Customs Office of Investigations investigates a wide variety of violations of Customs and related laws including, but not limited to, smuggling of merchandise such as diamonds or jewelry, fraudulent invoicing, currency and neutrality violations. Fraud investigations currently account for approximatly 25 percent of their case load with the remainder in currency, neutrality and other categories. Although the Customs Special Agents are prohibited from investigating drug smuggling, the Customs Patrol has adopted a limited investigative mode and provides some direct support to DEA on narcotics cases.

3. Drug Enforcement Administration

DEA is the lead agency for all Federal drug investigations. DEA supports cooperative efforts in foreign countries which are designed to reduce the availability of illegal drugs, such as the eradication of illicit opium and the disruption of the flow of illegal drugs in international traffic. DEA is responsible for operating a national drug intelligence system and is charged with providing information on drug smuggling to the border law enforcement agencies.

Drug arrests and seizures made by inspectors or patrol officers are referred to DEA investigators who take custody of the violators and drugs, initiate appropriate follow-on investigations and prepare the case for criminal prosecution. In cases where the Federal system will not accept the case forprosecution, DEA or Customs may attempt to secure a prosecution in state courts.

4. Interagency Considerations

The current U. S. policy on drug trafficking requires a full range of supply reduction activities, from eradicating the source of the drug at its overseas origin, disrupting the transportation or processing systems which bring it to the U. S. in a more refined form and destroying distribution networks within the U. S. DEA is designated the lead agency to implement the Federal drug strategy. Other Federal agencies responsible for border law enforcement are required to pass their drug smuggling cases to DEA for further investigation and prosecution.

The creation of DEA in 1973 was justified largely on the basis of the then existing conflict over the drug smuggling investigations in the U. S. Customs Service and the domestic drug conspiracy investigations of the Bureau of Narcotics and Dangerous Drugs (BNDD). It was alleged that Customs and BNDD were unable to work together. The intent of the 1973 reorganization was to make DEA responsible for all drug investigations, with Customs retaining responsibility for border interdiction. Customs disagrees with the current policy regarding drug investigations.

On most smuggling violations, Customs exercises investigative jurisdiction over the entire process. However, Customs investigators are not permitted to pursue drug smuggling investigations. Therefore, Customs has a strong desire to resume investigation of drug smuggling to maintain the continuity of the Customs overall effort in the belief that it will enhance the availability of drug smuggling information for use at the border itself.

FINDINGS - INVESTIGATIONS

1. The principal border control functions are inspection and patrolling. Investigation is an important supporting activity in responding to seizures and developing information. However, investigators have many other responsibilities which are less directly tied to the principal border control functions. Border management should be organized around the principal control functions with investigations organized to provide the best possible support consistent with other priorities.

2. Customs disagrees with the relative priorities assigned to drug trafficking investigations versus drug interdiction at the border. Customs' principal mission is border interdiction. DEA is responsible for developing Federal drug enforcement strategy and programs and for handling high level drug conspiracy cases. The different perspectives result in some conflict between the two agencies.

3. As long as the U. S. has a single purpose agency charged with the overall drug control mission, that agency should have the principal voice in determining the most effective approach to drug trafficking investigations. Therefore, any change in Customs' responsibility for domestic drug smuggling investigation should be contingent on DEA's agreement.

4. The Review Team found wide disagreement regarding current CPO/DEA relationships. Some Customs representatives felt that the current CPO/DEA working arrangements are a significant improvement in the relationship between drug interdiction and drug investigation. Others felt that the total responsibility for drug smuggling should be in Customs.

5. If the current National priority given to drug trafficking investigations is changed or DEA should cease to exist in its present form or role, consideration should be given to restoring Customs authority to pursue drug smuggling investigations.

6. A significant potential for reducing the impact of new illegal aliens on the domestic economy exists in expanding the investigative effort aimed at the interstate conspiracies which transport the smuggled aliens from the border crossing location to their ultimate destination in the U.S. Additional investigative resources should be committed in this area.

E. SUPPORT FUNCTIONS

In addition to the operating functions, there are a number of direct support activities which are vital to effective border management. The physical facilities (buildings, inspection areas, etc.), computer systems, and communications systems form the operational support base for border law enforcement.

1. Facilities: Physical facilities in many areas were observed to be inadequate. Many major land border crossings on both the Northern and Southwestern borders process a hugh volume of passenger and cargo traffic through facilities that are not designed to facilitate the flow of traffic and do not provide adequate space for secondary inspections. Emphasis on construction of standard port facilities, such as the one at Nogales, Arizona, could enhance the inspection function. Additional ports of entry could be opened to distribute the workload. However, political pressures to protect the economies along current entry routes have restricted management decisions.

Several major airports have recently undertaken efforts to remodel the international arrival areas to improve the passenger and baggage processing cycle. For example, the Seattle/Tacoma International Airport provides separate levels for Immigration and Customs processing. The smooth flow of passengers provides a valuable assist to the inspection process.

Observations at other locations supported the problem perceived by the study team. In Dallas, for example, the physical layout of the airport inspection area was viewed as small and cramped. Problems concerning airports, land border crossings and detention center facilities were noted at other locations. In addition, inadequate facilities at Montreal and Vancouver hampered effective Customs inspection at these preclearance locations. Passenger control, baggage control and ramp security are all viewed as problem areas in the preclearance facilities in these Canadian cities.

Summary: Most of the physical facilities provided for border operations are inadequate to meet current workloads. A high priority should be given to improving and expanding the facilities to provide both better service and more effective law enforcement.

2. Computer and Telecommunications Systems: Each of the principal agencies operates its own computer system. The DEA and Customs systems are modern and capable of meeting the requirements of these agencies. INS is in the process of expanding their computer system with some procurement action currently underway. The agency budget for computer procurement and operations for Fiscal Year 1977 were:

Customs	$24.0 million
DEA	18.1
INS	8.2
TOTAL	$50.3 million

A brief description of the systems follows:

(a) Customs

With almost 900 terminals located throughout the United States and at preclearance sites, the Treasury Enforcement Communications System (TECS) gives the greatest user coverage of the systems reviewed. In addition to an information storage and retrieval capability, TECS has a real-time enforcement administrative message switching capability, an intelligence function and interfaces to several other enforcement systems. TECS provides information to and receives information from several other agencies in the Federal community, e.g., ATF, IRS, DEA, and the Coast Guard. Department of State and the National Central Bureau of Interpol also use TECS. The principal use of TECS is to query the names of passengers arriving at airports, and license plate numbers of vehicles entering at land ports of entry. TECS provides a number of specialized systems for aircraft inspection reporting, vessel violation profiles, and currency violations. The hardware used for the TECS system also supports the Customs Activity Reporting (CLEAR) System which includes several statistical reports.

In addition to TECS, Customs also operates administrative computer support systems and is developing an automated merchandise processing system.

(b) DEA

The Narcotics and Dangerous Drugs Information System (NADDIS) is composed of centralized automated files on some 660,000 narcotics traffickers, a secure nationwide computerized telecommunications network which supports approximately 190 terminals.

While not a computer system, the El Paso Intelligence Center (EPIC) is an interagency sector intelligence center where six Federal agencies work toward a common goal -- a more secure U.S./Mexican border. They use all available information systems including TECS, NADDIS, NCIC, etc. The EPIC objective is to provide a complete and accurate picture of drug trafficking and alien and contraband smuggling along the Southwestern border of the United States. Working under DEA leadership, INS, FAA, Customs, Coast Guard, and ATF, render direct and immediate services to enforcement officers of the member agencies for border interdictions, seizures, arrests and/or prosecutions. EPIC provides timely information directly to Headquarters and field elements of participating law enforcement agencies. The processing and dissemination of this intelligence also contributes to strategic analyses by member agencies.

(c) INS

Currently, INS has limited computer capability. The INS system is largely a Headquarters support system which is rapidly developing agency-wide support capabilities. However, there is no INS equivalent of either TECS or NADDIS.

INS has devoted considerable systems design effort in recent years to plan a modern computer support system. INS' most promising development is the Alien Documentation, Identification and Telecommunications System (ADIT). ADIT will replace the 17 existing editions of the alien registration receipt and border crossing cards concurrent with the development of similar documents by the Visa and Passport Offices. The new cards contain fraudulent document control features which, when used in the automated ADIT System, are virtually couterfeit-proof and unalterable. When fully implemented on a nationwide basis in 1981, ADIT will consist of an alien ID card plus automated card and visa readers at approximately 200 U. S. ports of entry; telecommunications lines; mini-computers and automated access from field locations to the massive documentation for files which INS is legally responsible.

3. Radio Communications Systems: The U.S. Border Patrol, the Customs Patrol and the Drug Enforcement Administration all have radio communications systems. The telecommunications capabilities described in the preceding section supplement commercial and government telephone lines. The radio system is designed primarily to provide communication with mobile units. All agencies are interested in complete area coverage because of the need to maintain contact with the individual law enforcement officer both to give instructions and to provide for the safety of the individual officers. Therefore, each agency has an area radio system with repeaters located at appropriate locations to relay radio signals.

The Immigration and Naturalization Service, utilizing VHF radio equipment, has the only nationwide radio system of all border agencies. INS maintains a network of 340 radio base stations along U.S. borders and at the offices in the interior U.S. All INS districts, all Border Patrol Sectors, all ports of entry and suboffices are tied into this nationwide system.

The U.S. Customs Service, utilizing VHF radio equipment covers the U.S. borders everywhere except along certain sections of the Canadian border. For area coverage in these locations, there is a system to monitor INS frequencies. Customs plans to expand its own system to include this area.

The Drug Enforcement Administration, utilizing UHF radio equipment, maintains a radio network which supports the operating offices.

Customs Patrol and the Border Patrol have the most obvious need to communicate directly with each other. Even though the radios are compatible, the assigned frequencies are different and the mobile radios cannot communicate between patrols. At some locations, the field unit may call its communication center and the message is relayed by phone to the communications center of the other agency who relays it on its own radio system to the intended receiver. At some locations both INS and Customs acquire "scanners" so they can monitor each other's transmissions at the base stations and relay the message to the intended receiver.

Neither Customs nor the Border Patrol can communicate with DEA because VHF and UHF systems are incompatible. However, the need for routine radio communications between the patrols and DEA does not appear to be as important as the need for direct communication between mobile patrols.

4. Other Support Systems: R&D, Laboratory Support, Technical Equipment Program and Training: All investigative agencies have developed support programs to enhance enforcement effectiveness and provide more efficient operations and improved delivery of service. Research and development, laboratory support, use of technical equipment, and training are essential tools in improving the effectiveness of law enforcement. To minimize duplication, agencies with common or related objectives coordinate their "support" activities.

(a) Research and Development: Research and development supports investigation, interdiction, intelligence or regulatory programs and policy development and evaluation. Two categories of programs exist -- those resulting in hardware developments; and those providing data and analysis relative to policy or procedural development.

Hardware research and development programs include the requirements analysis, systems design, fabrication and test and evaluation of technical equipment required (1) to meet immediate specific operational needs, and (2) to meet long-term requirements of a general nature. Other research and development programs include: analytical studies primarily consisting of the application of systems analysis, operations research and social and behavioral sciences techniques to identify problem areas and recommend solutions.

Many of the projects have applications in other Federal, state and local law enforcement and drug abuse control organizations; consequently, research and development is coordinated with other agencies having similar functions. Examples include coordination between DEA, the U. S. Customs Service and the Department of Defense interdiction sensing devices and research on methodologies to assess abuse potential of drugs with Food and Drug Administration and the National Institute on Drug Abuse.

(b) Laboratories:

1. Customs

The Customs Service has laboratories in each of its nine regions, at Headquarters and in Puerto Rico. The labs are equipped to analyze samples of all merchandise entering the United States. Analysis of merchandise is essential since tariffs often depend on the component parts of the imported commodity.

Prior to DEA's becoming responsible for drugs, the Customs laboratories analyzed all seizures of drugs made by Customs officers and testified in Federal and State courts as to their findings. Customs laboratories continue to analyze samples of significant heroin and cocaine seizures made by Customs officers. Additional analysis of these seizures is done in DEA laboratories. Customs also analyzes drug seizures made by Customs officers when the Federal Government declines prosecution or when prosecution is accepted by state or local agencies.

2. DEA

The primary purpose of DEA's eight laboratories is to analyze drug evidence in support of the prosecution cases. The evidence analysis also provides a potential for linking suspects to achieve conspiracy indictments and providing strategic intelligence on the nature of illicit traffic.

Much of DEA's strategic intelligence is based upon laboratory analysis. Also, DEA supports state and local agencies when they need assistance to prepare drug cases for prosecution.

(c) Technical Equipment Programs:

1. Customs:

The Customs Technical Equipment Program is working to expand surveillance of air smugglers and to develop Regional Communication Centers which will cover the entire Nation. The expansion of computer facilities is also part of the program. Customs is now using mobile radar, night vision devices, forward looking infrared devices and ground sensor systems to track smuggling suspects. Customs R&D effort is geared toward support of the Customs Air Interdiction Program and operation of ports of entry.

2. DEA

DEA's Technical Equipment Program is designed to identify, develop and/or provide required advanced technical investigative equipment, and is managed by the Technical Operations Division with several field area technical operations groups who insure availablity, utilization, maintenance and training in the use of technical equipment. In addition to radio and other communication systems and devices, technical equipment includes vehicle position location and tracking systems and a remote multispectral opium poppy sensor system.

3. INS

The Immigration Technical Equipment Program includes their nationwide radio communications system.

In support of its border interdiction program, Immigration has installed extensive systems of commercially designed and procured ground sensors which are tied into the radio base stations through a series of repeaters. Minicomputers are being used in a number of Border Patrol sectors to record, analyze and verify signals transmitted to the base station by the unattended ground sensors.

(d) Training:

1. Customs:

Customs maintains its own training academy for inspectors, patrol officers, import specialists, and other Customs personnel. CPO's and Special Agents also receive training at the Federal Law Enforcement Training Center at Glynco, Georgia.

2. INS

The training academies at Glynco, Georgia, conduct basic and journeyman programs for all INS officers including Border Patrol agents, immigration inspectors, criminal investigators, detention and deportation officers and naturalization examiners.

3. DEA:

DEA's National Training Institute (NTI) conducts a full range of agent and support training to provide U. S. and foreign law enforcement officers with the drug law enforcement skills.

REVIEW TEAM FINDINGS - SUPPORT SYSTEMS

1. Facilities -- High priority should be given to improving and expanding the physical facilities at ports of entry to provide better services and more efficient enforcement.
2. Computer and Telecommunication Systems -- The systems developed by each agency appear to be appropriate for that agency's use. However, increased effectiveness could be realized through joint use of existing capabilities.
3. Radio Communications Systems -- If two separate land patrol forces are continued, the mobile VHF radios currently in use should be modified or replaced to provide direct radio communication between patrol elements operating in the same area.
4. Other Support Systems -- Some basic duplication exists, but there are no major advantages in consolidation unless there is a merger of the parent agencies.

F. INTELLIGENCE SUPPORT

Other policy review efforts are addressing the intelligence function in detail. Therefore, this section will address only the relationship of intelligence to border enforcement activities.

Border interdiction intelligence consists of two types of information which are reflective of the differing missions and attitudes of the various agency's interests in controlling the borders:

- Major trafficking networks or conspiracies which deal in the high priority drugs (heroin and cocaine) and with the smuggling of aliens from foreign areas into the interior of the United States.

- Activities within the local border area aimed at interdiction of narcotics and other contraband, illegal entrants and those smugglers who assist aliens in crossing the border itself.

1. National Intelligence

The major alien and narcotic trafficking network intelligence (National level) is aimed at disrupting and eliminating major trafficking rings wherever it is possible and where the greatest impact can be achieved. This intelligence effort supports crop eradication in foreign areas, foreign prosecution of narcotics violators, and domestic prosecution of major traffickers in both aliens and hard narcotics. Although some of the resulting cases may be terminated with an interdiction at the border to avoid exposing confidential informants and investigative methods, this National intelligence is not generally supportive of the alien or narcotic interdiction function at the borders. DEA concentrates its resources on national level intelligence.

2. Local Intelligence

In the border areas, however, the situation and the information required to deal with it are quite different. Border area smugglers trade in anything which is profitable and which provides the least risk, such as aliens, marihuana, parrots and pinto beans. Border area smugglers build effective supply and distribution networks on the basis of these relatively "safe" commodities. Border area smugglers are directly affected by successful interdiction efforts. High-level international drug traffickers normally do not participate directly in the border activity and, consequently, are insulated from the effects of successful interdiction.

The local intelligence required for the interdiction function is normally gathered by the Border Patrol, the Customs Patrol and DEA through their daily contacts with the local population. Local persons and businesses have proved to be a valuable source of local interdiction intelligence.

3. EPIC

To coordinate the collection, analysis and dissemination of border-related intelligence, DEA, with the cooperation of INS, formed the El Paso Intelligence Center (EPIC) which was described earlier in this paper. All intelligence information gathered by the DEA and Border Patrol relating to marihuana, narcotics, alien smugglers, fraudulent documents, etc., is processed through EPIC for analysis and dissemination to the appropriate agency. Customs does not believe that DEA assigns a high enough priority to the collection of intelligence to support the border interdiction function. It is, therefore, Customs' view that EPIC, under DEA management, is of limited utility to the principal border management agencies, and, to be effective, EPIC must be under the control of the principal border management agency.

FINDINGS - INTELLIGENCE SUPPORT

1. All intelligence gathered in the border area should be processed through a central location and tied into the communications and intelligence systems of all concerned agencies. The most logical "clearing house" for this intelligence function is the El Paso Intelligence Center (EPIC).

2. EPIC will never be fully capable of providing adequate information for border interdiction until Customs, as a principal border enforcement agency, is also a major user of the analysis capability of the Center. Customs should participate in the management of EPIC and reconsider the potential benefit of EPIC's border interdiction information function for use by Customs officers.

3. If a border management agency is created, EPIC is a logical resource to be utilized by the border management agency and should provide border interdiction information as well as supporting DEA's drug investigative requirements.

G. NON-BORDER FUNCTIONS

In addition to those functions performed at the border, there are functions which, although performed in the interior, are natural extensions of border operation. Those functions performed by INS include such areas as adjudications, naturalization, investigations, detection and deportation, and certain other functions performed by the inspectors and Border Patrol Officers. Customs, however, by virtue of its mission, focuses its resources almost exclusively on the border and border-related activities. The preponderance of DEA's resources are allocated to non-border areas.

For a more detailed description of non-border functions, see Appendix G.

CHAPTER 4

PROBLEMS AND ISSUES

A. INTRODUCTION

Over the past five years, Federal efforts to stop illegal drug trafficking have received a high priority through Federal attention and budget increases. Similarly, the illegal alien problem and its impact on the U.S. economy is causing a great deal of concern in both the Congressional and the Executive branches of our government. Border control is an important part of the solution to both of these National problems.

This report addresses overall border management and what can be done to improve border control. The preceding chapters describe the organizations and functions which contribute to the complexity of border operations. The wide variety of responsibilities create a challenge to management in balancing service to the public with effective law enforcement.

In the midst of this complexity, it is difficult to address individual problems. What is a significant problem at a major airport may have no relevance to a small northern land port. A multitude of examples can be collected to support either side of any discussion regarding border operations.

The review process has been designed to identify those problems which are having the greatest impact on overall effectiveness and to propose solutions which will improve border management. The review is not intended to solve all border problems, but to provide a framework within which problems can be solved as they occur.

Following a problem identification phase, problems were grouped into categories and used as the basis for discussion during field visits. The principal categories were:

- The magnitude of border problems.
- Duplication of effort.
- Lack of cooperation and coordination.
- Inadequacy of border management resources.
- Service to the public.
- Inadequacy of intelligence.
- Border policies and priorities.

Specific problems associated with these categories are discussed throughout the report. The organizational implications have been included in the options in the following chapter.

During the analysis of problems, two areas were identified as the major obstacles to effective border control. Both issues are appropriate for Executive Office consideration as beyond the control of any single agency or department.

ISSUE 1 -- Lack of coordinated border management.

ISSUE 2 -- Overlap and duplication of effort.

Two other areas were considered as having a serious impact on border interdiction, but are directly associated with National policy and priorities regarding drug law enforcement; drug investigations and drug intelligence. The Federal strategy and relative priorities given to these two areas are the subject of other policy reviews. Therefore, this report only summarizes the border perspectives. Their impact on border interdiction is described in the preceding chapter.

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ISSUE 1

ISSUE: THE LACK OF COORDINATED BORDER MANAGEMENT

Effective border control is an important part of insuring the economic and social well-being of the United States. Yet, the Federal effort to control the borders is not a coordinated activity. Various responsibilities are vested in eight agencies in seven departments. Current border management policy exists only in the form of separate laws, regulations and operating priorities of the various agencies with border management responsibilities.

Problem Resolution:

Each of the border agencies is responsible for a specific part of border control and each agency pursues its own mission, sometimes in competition with the other Federal border agencies and interests. When conflict between agencies appears, there is no effective mechanism to resolve the problem. Even though interagency agreements exist in writing, the operating problems continue along the borders.

Flexibility:

The current organizational structure of border agencies creates a lack of flexibility in responding to crisis and difficulty in providing a coordinated interdepartmental response to new or existing threats. When a major problem or a crisis situation grows beyond the control of the responsible agency, it generates a lengthy process of study, Executive Office decision, Congressional consideration and eventual commitment of new resources to the agency most concerned with the problem. More flexibility in management would encourage timely use of all existing Federal border resources before new resources are considered.

New Approach:

The unique characteristics of the border area and the increasing interest in border control suggest a broader approach to management of our border resources. The expanded use of the term "border management" in itself suggests a more appropriate view of border requirements. A long range plan for border management is needed to set overall operational and budget priorities.

FINDINGS:

The Review Team found that two levels should be addressed in improving coordination, operating management and policy direction.

1. Eliminate the basic cause of lack of operational coordination by consolidating the principal border functions in one agency. By reducing the requirement for interagency and interdepartmental coordination, agency operating policies will be more representative of the total Federal interests.

2. Provide a continuing overview mechanism within the Executive Office to develop a long-range border management plan and necessary policies to insure that border operations are supportive of all Federal programs.

ISSUE 2

ISSUE: OVERLAP AND DUPLICATION OF EFFORT

Findings of overlap of responsibilities and duplication of effort are the common theme in previous studies of border operations. This review also identified overlap and duplication in both the operating and support functions and attempted to assess the resulting impact on effectiveness.

Several factors were considered in determining effectiveness. The obvious need for economy and efficiency was balanced with the observation that the differing perspectives of a variety of specialities may enhance successful detection of illegal activities. Duplication of effort was considered in the light of reported resource deficiencies by the principal border enforcement agencies. Both INS and Customs reported a lack of personnel, equipment and other resources required to perform their respective missions. The Review Team found it difficult to determine the degree of resource shortage because both agencies have duplicate functions and support structures, e.g., inspection, patrol, and investigation; computer systems, radio systems, boats, aircraft, vehicles, etc. It is not possible to make a definitive judgment on overall resource shortages because of the existing duplication. Therefore, observations regarding resources shortages are based on inability to meet workload requirements.

Likewise, the total amount of illegal activity taking place is unknown and makes the determination of "adequacy" particularly difficult. It was evident that considerable illegal activity is continuing to take place despite a high level of effort by the current Federal border enforcement force. Following is a summary of the Review Team's observations in each functional area.

Inspections:

a) At land ports of entry, Immigration inspectors and Customs inspectors jointly man the primary inspection area. Differences in inspection priorities and duplication of management structure were observed. While duplication of inspection personnel was evident, the workload was sufficiently large to suggest that the duplication is not, in itself, inefficient.

There are informal local agreements regarding the ratio of Customs inspectors to INS inspectors assigned at primary inspection points. Shortages of inspectors resulted in an undesirable ratio or balance between primary and secondary inspection and, in one case, caused a major part of the facility to be closed.

Part of the illegal alien problem is attributed to lack of adequate Immigration inspection, particularly on the Southwest border. Further, lack of Customs inspectors to fully man secondary inspection was identified as a serious shortcoming in detecting smugglers. Both problems appear to be resource sensitive, but one contributes directly to the other. When INS cannot meet the desirable 50/50 ratio in staffing primary inspection of vehicles, Customs inspectors are diverted from secondary to fill the gap. Therefore, both conditions exist; understaffing of Immigration interests and of Customs secondary. Increasing the number of INS inspectors would contribute to the solution of both problems by restoring a balanced staffing of primary inspection and releasing Customs inspectors to do secondary inspections.

The dual management structure complicated local policy and operating decisions. Various attempts have been made to consolidate management of inspection by alternating responsibility between INS and Customs, but the basic problem remains.

Consolidation of inspection responsibility at land ports would allow better utilization of the existing inspection force and eliminate the duplication in management structures. However, continued availability of qualified specialists would be required for all areas of secondary inspection.

b) At most airports of entry there is a two-step passenger inspection configuration; Immigration followed by Customs. Elimination of the duplicative management structure and the potential efficiencies in a consolidated inspection force could improve airport inspection. A single-stop inspection process would be the likely outcome of a merger of inspection forces. Again, the need for specialized secondary inspectors would not be eliminated by consolidation. However, consolidated management could include procedures which would insure availability of specialists.

c) At sea ports of entry, overlap and duplication of inspection efforts is apparent. Customs has responsibility to board vessels for the purpose of checking cargo manifests and ship's papers. Immigration and Naturalization Service inspectors board vessels to ascertain the Immigration status of the crew and/or passengers. Also, Agriculture inspectors board vessels and check the food lockers, cargo manifests and garbage control. A single inspection service could perform all ship inspections.

Patrol:

Customs!

The most obvious example of overlap and duplication of effort was observed in the patrolling of the land borders between the ports, particularly along the Southwest border. Customs Patrol officers and INS Patrol officers cover the same territory. The Customs Patrol interdicts drugs and other contraband. The Immigration Border Patrol apprehends illegal aliens. Both use similar methods of patrol by uniformed officers and intercept persons in the vicinity of the border. Both use sophisticated technology such as sensors and night vision devices to detect intruders. Each patrol was observed to pursue the mission of his respective agency with little regard for cooperation with the other.

Consolidation of responsibility and resources for patrolling would eliminate the overlap and duplication of effort with the land patrol function and should improve overall effectiveness.

Investigation:

DEA, INS and Customs all have criminal investigators. Each agency uses these special agents to investigate violations of laws which they enforce. As a general observation, the duplication of investigative staff does not create inefficiency. ✓

However, there are allegations of fragmentation of drug smuggling investigative responsibilities. The issue focuses on the relative priority of border interdiction compared to the National priority on narcotics trafficking investigations. As stated earlier, this policy question is addressed in a separate report on Drug Law Enforcement.

Customs or DEA

Air Surveillance and Patrol:

The Customs Air Program uses seized and purchased aircraft, augmented by military type gap-filler radar to detect and intercept smugglers of narcotics and other contraband. INS uses light aircraft to support its ground operations through surveillance of the actual border. DEA uses aircraft in support of its investigations. The use of aircraft provides both operational support and visible deterrence.

There is little overlap or duplication of effort in the various aspects of the air activities. Each agency uses its aircraft in a different mission orientation. The geographic dispersion of the aircraft suggests that consolidation of air support or maintenance activities does not appear to offer either signficant savings or increased effectiveness.

Support Functions:

The support functions are generally duplicated in each agency. It appears that each of the border agencies will continue to develop their own systems with duplicative management structures and processes.

In the absence of consolidation of agencies, the consolidation of support functions is unlikely to be successful. The history of lack of cooperation between border agencies mitigates against a central support activity. As an example, the joint use of the Customs computer support system has been recommended for several years. The agencies have not been able to get together on this obvious solution. INS is developing its own computer support system and current efforts to force joint use of a Customs system are not likely to produce a solution acceptable to both agencies.

However, if agencies are consolidated, significant potential exists for greater efficiency and effectiveness in consolidation of the following support functions:

- computer support systems
- radio communications systems
- telecommunications systems
- training activities
- research and development activities

The El Paso Intelligence Center (EPIC) is an intelligence support activity designed to integrate the information data bases of DEA, Customs, INS, FAA, the Coast Guard, and other agencies, and provide a clearinghouse service to meet border enforcement needs. The potential exists for significant improvement in intelligence support if all border agencies integrate the full use and support of EPIC into their operations.

Other Considerations:

Secondary Inspection: Another factor considered was the absence of conflict when one set of personnel have independent duties, but operate in support of the primary function. For example, there was no conflict attributed to the specialized inspectors who normally do not work in primary inspection (Agriculture, Public Health, Fish and Wildlife). Several factors contribute to this lack of conflict; very small numbers of personnel present, clearly defined and specialized duties, and physical separation from the massive workload of primary inspection.

The Review Team felt that the continued need for specialized inspectors and the existence of other responsibilities outside of inspection combined with the absence of conflict provided sufficient justification to set aisde these smaller contingents of specialized inspectors from considerations of consolidation. In the long term, a consolidated border management agency would be able to accommodate the requirements for specialized inspectors by establishing appropriate career fields within its inspection service.

Other Activities: In reviewing the operating problems in border management, inefficiency and conflict inevitably involved physical presence. Where patrol officers or inspectors have similar responsibilities and operate in the same facility or same geographic area, the opportunity for conflict is greatest. Where agencies have similar responsibilities but operate apart from each other in different areas or in a different element, the problems are greatly reduced.

The primary example of operating in a different element is the U.S. Coast Guard. The current interagency relationships and the support provided by the Coast Guard to other law enforcement agencies were judged to be satisfactory. Further, the Coast Guard may enforce Customs laws because every officer of the Coast Guard is empowered, by statute, with the authority of a Customs officer.

FINDINGS:

1. Overlap and duplication were noted in the functions of patrolling the land borders between ports of entry and in the inspection process at ports of entry. Elimination of this condition would enhance overall effectiveness.

2. Some support activities are duplicative but are not, in themselves, likely candidates for consolidation. However, consolidation of the principal agencies would allow consolidation of support activities.

3. Universal duplication of effort in each function was not found. For example, the port security function of the Customs Patrol at seaports was not duplicated by another agency. However, each port of entry had a dual management structure of both INS and Customs managers. In some larger ports, there is an added management structure in the Agriculture inspection force.

4. A merger of the principal border enforcement agencies would significantly reduce overlap and duplication of effort and greatly enhance the overall effectiveness of border operations. It would allow management greater flexibility in responding to peak workloads and to immediate crises. A single border management agency would also allow consolidation of management and support functions which should create significant savings.

CHAPTER 5

OPTIONS

INTRODUCTION

The purpose of this chapter is to set forth a range of options identified by the Review Team as the most viable alternatives for achieving more effective border management. The objective in the selection of options is to be more responsive to current needs and have inherent flexibility to adjust to future needs.

The policy findings discussed in the preceding chapter should serve as general guidelines for any border management organization. The options selected range from additional resources within the existing organizational structure to a major reorganization. For example, additional resources should be allocated to reinforce selected functions even if a reorganization option is selected. In summary, the options are:

OPTION 1 - No change in organization. Budget priority to selected functions.

OPTION 2 - Limited consolidation involving specific functions.

OPTION 3 - Creation of a multi-purpose border agency (INS and Customs)

OPTION 4 - Creation of an expanded multi-purpose border agency (INS, Customs and Coast Guard)

A detailed discussion of each option follows.

OPTION 1

NO CHANGE IN ORGANIZATION. EXISTING AGENCIES CONTINUE TO PERFORM THEIR CURRENT DUTIES. ADDITIONAL BUDGET PRIORITY GIVEN TO SELECTED FUNCTIONS.

DISCUSSION OF OPTION 1

This option provides direct additional resources to meet specific needs identified during the review. In response to current National problems of aliens and drugs, there is a need for additional border resources to strengthen the inspection, patrol and air interdiction functions. This approach continues the policy of applying resources to the specific commodity or function that is deficient and responding directly to critical areas such as the illegal alien and drug smuggling problems. Budget and other resource decisions should give priority to the following:

1. Add INS and Customs inspectors to meet expanding workloads and provide for increased level of secondary inspections.

2. Increase the number of U.S. Border Patrol (INS) officers to improve the interdiction and deterrence capabilities between the ports of entry on the Southwest and Northern borders.

3. Increase the force of INS investigators to conduct interstate conspiracy investigations of alien smuggling rings.

4. Expand the capability of the Customs Air Interdiction Program to detect and intercept smuggling attempts by air.

5. Expand Customs participation in the management and use of the border intelligence center (EPIC).

ADVANTAGES

- Adds resources in areas of greatest potential for effectiveness.

- Provides additional resources to specific problem areas.

- Permits agencies to continue emphasis in area of specific expertise.

- Enhances the deterrent effect of more visible enforcement.
- Least disruptive of all options in that existing organizational structures are not changed.

DISADVANTAGES

- Does not consider border management as a total package.
- Continues a form of crisis management focusing on current problems.
- Does not eliminate existing overlap and fragmentation of effort.
- Continues duplicative management and support structures.
- Higher budget priority does not insure better use of existing resources which may be available in other activities.
- Does not correct the continuing interagency competition and lack of coordination.
- Little probability of improved management or procedures.

OPTION 2

LIMITED TRANSFER AND CONSOLIDATION OF SPECIFIC FUNCTIONS AND RESPONSIBILITIES.

DISCUSSION OF OPTION 2

This option provides for substantial increase in effectiveness through consolidating responsibilities and resources for the key border enforcement functions. While this option would not result in a decrease in the number of border agencies, it would minimize jurisdictional and geographical overlap by focusing one agency on a particular aspect of border management activities. This option would result in some short-term disruption but it would provide more flexibility in meeting workloads. The major candidates for consolidation and transfer under this option are:

- Responsibility and resources committed to the inspection function at all ports of entry could be transferred to either INS or Customs.
- Responsibility and resources committed to the patrol function on the land borders between ports could be transferred to either INS or Customs.

ADVANTAGES

- Provides a single manager responsible for each of the key border functions.
- Minimizes disruption, since existing agencies would continue.
- Assigns responsibility to a single agency to focus attention and expertise within each functional area.
- Eliminates duplication in local management structure.
- Permits some flexibility in that agencies would have broader responsibilities within each function.
- Eliminates the source of existing competition and lack of cooperation within the principal operating functions.

DISADVANTAGES

- Does not view border management in its entirety.
- Would not completely eliminate competition between agencies.
- Creates high probability of conflict over how well the single manager is performing services for the other agency.
- Continued duplication on part of the management structure.
- Specific emphasis and expertise could be lost for those functional and commodity responsibilities transferred into the other agency.
- Would create some personnel turbulence and disruption during changeover.
- Likely to receive intense opposition from unions currently representing inspectors and patrol officers.
- Has been tried and failed on several previous occasions because of special interest opposition.

OPTION 3

CREATION OF A MULTI-PURPOSE BORDER MANAGEMENT AGENCY INCLUDING INS AND CUSTOMS

DISCUSSION OF OPTION 3

Option 3 represents a major change from the existing structure. It would provide greater management flexibility in the use of existing resources and would allow the consolidation of the inspection and patrol functions included in Option 2. Option 3 would result in fewer Federal agencies with the transfer of functions and resources into a consolidated multi-purpose agency. All agencies which have border enforcement responsibilities were considered in developing this option. For reasons discussed in the preceding chapter, this option sets aside consideration of Agriculture, Public Health, Fish and Wildlife and supporting agencies in favor of correcting the fundamental problem of the overlap and duplication between the two principal border enforcement agencies, INS and Customs. If these two agencies were transferred into a new border management agency, it would provide the basic foundation for a full service organization which might expand later to include secondary inspection functions performed by such agencies as the Fish and Wildlife Service, Agriculture, and Public Health.

Option 3 focuses on the transfer of all functions and personnel of INS and Customs, as well as the management of the border support function within the El Paso Intelligence Center. Consideration of Option 3 included:

1. Which agencies and functions should be involved.
2. How such a transfer would be handled to minimize opposition and turbulence associated with the organizational changes.
3. Which Cabinet department should be responsible for the new agency.

Many of the current problems are tied closely to the existing organizations. The border agencies have a long history of service to the United States. Tradition should not be lost through merger of one into the other. Any reorganization effort should provide for the continuation of special expertise where necessary to enforce specific laws and regulations.

The Review Team selected the following set of agencies and conditions to be the most practical approach to improving effectiveness through reorganization:

1. INS and Customs resources and functions should be joined together under single management. Management of the border interdiction portion of the El Paso Intelligence Center (EPIC) should be assumed by the single border management agency.

2. Rather than specify a date certain for the disestablishment of INS and Customs, the consolidation should be accomplished over a specified period of time and under the control of the single manager ultimately responsible for the new organization. Accordingly, the reorganization should provide for an umbrella management structure to direct the new organization and for a special transition staff within the new agency to accomplish the reorganization

3. As previously stated, the reorganization should not be considered as a merger of INS into Customs or vice versa. It should be considered as creation of a new agency with the virtues of both organizations. Along these lines, a proposed name for the new agency might be the U.S. Customs and Immigration Service.

4. Both Customs and INS should continue their current organizational structure at the transfer. Priorities for internal reorganization and consolidation should be established and a target date should be specified for the initial consolidation of selected functions. The following functions should be considered by the new agency for early consolidation:

   A. Primary inspection at all ports.

   B. Patrolling of the land borders.

   C. Operational support functions, particularly communications and computer systems.

   D. Management structures and administrative support.

5. The new Director should be required to report to the President and to the Congress at the end of 18 months on the accomplishments during the transition period and the plan for the next phase.

6. In determining the appropriate Cabinet department for a consolidated border enforcement agency, the most likely candidates are the Department of Justice and the Department of the Treasury. The review suggests that the principal considerations should be the size and nature of the border presence, the relative strength of each agency's ties to its current department, the relative contribution to control over entry and the potential impact on the revenue function.

Viewing Option 3 and an appropriate implementation process as a package, the advantages and disadvantages are:

ADVANTAGES

- Provides central management for principal border enforcement functions.
- Eliminates existing overlap, duplication and fragmentation of effort.
- Recognizes the interrelationships of border management functions; i.e., inspection, patrol, revenue collection and support services.
- Responds to current problems of interagency coordination, competition and parochialism.
- Provides flexibility of a multi-purpose organization in responding to a variety of both transitory and long-term problems.
- Provides opportunity to provide better services to the public.
- Better utilization of Federal resources.
- Reduces the number of Federal agencies.
- Does not disrupt those areas which were not identified as problems, e.g., Agriculture, Coast Guard, etc.

DISADVANTAGES

- Possible reduction in effectiveness during reorganization period.
- Generates some personnel turbulence particularly at mid-level and senior management as duplicate organizations are merged.
- Larger organization may present more complex internal management problems.
- Change may be opposed by various special interest groups.

OPTION 4

CREATION OF AN EXPANDED MULTI-PURPOSE BORDER MANAGEMENT AGENCY WHICH INCLUDES INS, CUSTOMS, AND THE U.S. COAST GUARD

DISCUSSION OF OPTION 4

Option 4 is an expanded version of Option 3 which provides a more comprehensive border management agency. It goes beyond control over entry to consolidate management of the major Federal resources involved in control of the borders and U.S. waters forming the perimeters of the United States.

As in Option 3, agencies with minor presence and support responsibilities are set aside. Options 3 and 4 both provide for the elimination of overlap and duplication between INS and Customs. Option 4 greatly expands the size and responsibilities of the new organization to include the broad responsibility of the Coast Guard for the seas surrounding the United States. Currently, the Coast Guard is responsive to the support requirements of border law enforcement agencies and coordinates directly with the agencies involved. However, border law enforcement was found to be a relatively small portion of the Coast Guard's total responsibilities.

Option 4 requires the same considerations as Option 3 for implementation regarding INS and Customs. It assumes that the Coast Guard would remain a separate entity within the border management agency to facilitate its transfer for national security purposes in time of war. A logical alternative to Option 4 might be to include the U.S. Coast Guard in the same department as the new border management agency. Assuming an appropriate implementation process, Option 4 presents the following advantages and disadvantages.

ADVANTAGES:

The advantages described in Option 3 also apply to the expanded multi-purpose border management agency. The principal advantages which would result from such a consolidation are:

- Places Federal responsibility for the entire perimeter of the U.S., both borders and U.S. waters, in a single organization.

- Likely to enhance the priority of the border law enforcement role within the U.S. Coast Guard.

- Significant increase in the total amount of resources within the border management agency.

- Possible elimination of separate Customs Marine Patrol activities.

DISADVANTAGES:

The disadvantages identified under Option 3 would also apply if the U.S. Coast Guard were included. Additional disadvantages are:

- Increased emphasis on border law enforcement could detract from the safety and other non-law enforcement responsibilities of the U.S. Coast Guard.

- The large size of the Coast Guard and its broad range of responsibilities could detract from the desired border law enforcement orientation of the remainder of the border management agency.

CHAPTER 6

CONCLUSIONS AND RECOMMENDATIONS

A. GENERAL

As the last step in the process of developing this report, the preceding chapters were furnished to the involved agencies and departments for review and comment. Upon receipt of the comments, they were given careful consideration and appropriate changes were made to insure that the report accurately reflects the intent of the Review Team.

The responses from the departments and agencies are attached as appendices to this report. They are included in their entirety with the exception of the remarks from the Department of Agriculture. The Agriculture comments were in the form of notations on the original draft and have been incorporated in the final report.

The comments acknowledge the existence of overlap and duplication and the need for some consolidation of effort. However, the comments reflect different opinions regarding which Cabinet department should receive the new agency. Further, other questions are raised regarding Federal law enforcement in general which are beyond the scope of this review.

The President's Reorganization Project in the Office of Management and Budget has the ultimate responsibility for developing reorganization plans in conjunction with the overall reorganization study of the Federal Government. Therefore, this report is intended to provide OMB with a current evaluation of and recommendations regarding border management. The Office of Drug Abuse Policy will assist OMB in developing any specific reorganization plan related to this review. Additionally, the report will be distributed to the participating departments and agencies and will be used in developing a new Federal drug abuse strategy.

B. CONCLUSIONS OF THE REVIEW TEAM

The Review Team discussed the entire set of comments received from the departments and agencies. The objective of a long-term solution to observed problems of lack of central management, overlap of responsibilities, and duplication of effort in border management was reaffirmed and the Review Team findings are:

1. The current organizational structure was determined to be the underlying cause of the majority of current operating problems. Therefore, the solution to existing border management problems lies in a revised management structure which can achieve maximum effectiveness with available resources, respond to changing priorities, and provide adequate border control as well as better service to the public.

2. Any major change in organization must be planned to provide clear responsibility for the result. The need for long-term effectiveness was weighed against potential disruption in on-going efforts. The first phase of any proposed reorganization should be directed at correcting the fundamental problems underlying the entire area of border management. From this basic foundation, border management should evolve toward further improvements in effectiveness and efficiency.

3. The basic causes of lack of coordinated border management can be eliminated by consolidating the principal border functions in one agency. By reducing the requirement for interagency and interdepartmental coordination, agency operating policies will be more responsive to the total Federal interests. It would also allow consolidation of selected management and support functions which should create significant savings.

4. The Coast Guard should not be included within a consolidated border management agency. However, the option of including the Coast Guard in the same department was not eliminated from consideration. The President's Reorganization Project has indicated that further consideration of the relative priorities of the Coast Guard's law enforcement functions may be warranted.

5. A continuing overview mechanism should be established within the Executive Office to develop a long-range border management plan and necessary policies to insure that border operations are supportive of all Federal programs. The overview mechanism would also be useful during the transition period for any reorganization effort.

6. In addition, there should be immediate action to increase resources available to the functions of inspection, patrol of land borders and adjudication.

C. RECOMMENDATIONS

The Review Team makes the following recommendations:

-- A multi-purpose border management agency should be created by consolidating INS and Customs in a new agency (Option 3).

-- An appropriate reorganization plan should be developed by the President's Reorganization Project to include placement of the consolidated border management agency in a Cabinet department consistent with overall government reorganization planning.

-- The emphasis and direction of the reoganization planning should be to provide the optimum organization for long term effectiveness in overall border control. This approach enhances control over all the border threats (drugs, aliens, loss of revenue, gun smuggling, etc.).

-- Consolidation of the agencies and functions should be achieved through an umbrella management concept. The reorganizaton plan should provide a set of initial priorities, but allow the new Director some flexibility in determining the internal structure of the new agency. The following functions should receive high priority for early consolidation.

1. Primary inspection at all ports.
2. Patrolling of the land borders.
3. Operational support, particularly communications and computer systems.
4. Management structure and administrative support.

PRESIDENT'S
REORGANIZATION
PROJECT

WASHINGTON, D.C. 20503

DATE: December 14, 1977

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REORGANIZATION OPTIONS RELATED TO

BORDER MANAGEMENT

This paper is a draft option document circulated to knowledgeable individuals and groups for their comments and suggestions. It does not constitute the recommendation of any option by the President's Reorganization Project.

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REORGANIZATION OPTIONS RELATED TO BORDER MANAGEMENT

BACKGROUND

A number of serious social and economic problems facing the United States today converge at our national borders and bring into sharp focus a fundamental question of control. On the one hand, concern over narcotics, illegal aliens and the smuggling of contraband argues for strict border controls to enforce Federal laws. On the other hand, concern for encouraging travel, tourism and trade--in keeping with this Nation's democratic principles--argues for border controls more likely to reduce inconvenience, delay, and economic loss.

The problems of border control are intensified because of the immensity of the activities involved. Almost 300 million people and 80 million vehicles legally cross our borders each year. Enormous volumes of cargo annually pass through United States' ports of entry. Representing the bulk of $250 billion in import and export trade, 160,000 vessels arrive at United States' seaports annually carrying 3 million crewmembers and passengers. Customs duties collected on imports alone exceed $7 billion each year. Twenty million persons and huge volumes of air cargo arrive annually on 350,000 commercial, military

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and private flights. At the same time, tons of narcotics and related substances are smuggled into the country each year. In recent years Mexico has become the chief source of heroin smuggled into the United States. One and a half million persons are apprehended annually as they attempt to enter the country illegally. Smuggling of all forms of contraband and aliens appears to be increasing. Problems related to border activities are the source of growing concern to the Hispanic and other American communities along our borders and the source of serious potential conflict with our international neighbors.

Effective control of the United States' borders has a direct impact on a wide range of government programs, including narcotics control, alien regulation, contraband smuggling,, and protection of the economic, health, and agricultural interests of the United States. This option paper assumes that improved control of the national borders could benefit the many Federal domestic programs which are linked to border activities.

Historically, border control has been exercised by the agencies charged with enforcing each separate substantive law and its related domestic program. At one time separate border inspections were conducted by the Public Health Service (now of the Department of Health, Education, and Welfare); the Department of Agriculture; the Immigration and Naturalization Service (of the Department of Justice); and the United States Customs Service (of the Treasury Department). Today at many United States ports of entry separate and largely uncoordinated inspections

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are made by the Immigration and Naturalization Service (INS) and the U. S. Customs Service (Customs). The same duplication of effort occurs in conducting patrols between ports of entry where entirely separate patrol forces are maintained by the INS and Customs. It is not clear that this duplication is necessary or beneficial.

The effect of such a narrow, program-oriented system for performing identical border functions, including inspection and patrol, has been waste and inefficiency, not only in the performance of the functions, but also in the need to acquire separate systems and facilities to support these functions, such as telecommunications and computer hardware. Fragmentation of border control efforts has also meant a lack of overall planning, with the present disjointed organizational structure resulting all too often in the lack of any overall policy for managing the borders.

In September, 1977, the Office of Drug Abuse Policy (ODAP) completed a review entitled "Border Management and Interdiction--An Interagency Review." The President's Reorganization Project cooperated in the ODAP study, and concurs with its basic finding that adoption of a concept of total "border management" is necessary to solve the organizational problems identified, and to implement President Carter's announced initiatives in response to the problems of drug abuse and undocumented aliens. The conclusion, that some organizational changes in Federal border activities are required is also supported in a report released by

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the General Accounting Office on December 2, 1977, and in a recent position paper prepared by a unit of the American Federation of Government Employees.

Prior to the submission of any recommendations to the President by the Reorganization Project, this option paper is being circulated in draft form to interested persons and groups in order to allow comment and advice from knowledgeable persons inside and outside of the Federal Government.

GENERAL FINDINGS

The President's Reorganization Project has made the following tentative findings:

1. The United States borders are under increasing pressure from a flow of illegal narcotics and drugs, undocumented aliens, and contraband such as guns and stolen vehicles. A number of community leaders along the Southwest border report a thriving commerce in guns and other property stolen in the U. S. and exchanged for narcotics in Mexico.

2. Serious problems of overlap, duplication of effort, and lack of coordination exist between the two principal agencies involved at the land borders, Customs and INS.

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These problems significantly hamper effective border control. Persons on patrol in the two major patrol forces on the border cannot directly communicate with each other because they use different radio frequencies. Inspection forces which are located virtually side-by-side at international airports rely on separate systems--the one manual; the other fully automated--to identify known or suspected violators, many of whom may be dangerous. Preliminary efforts are only now being made toward integrating these systems.

3. In concentrating on its border enforcement responsibilities to prevent illegal entries, INS has been unable to devote sufficient resources to its important nonborder administrative law functions. As the President noted in his undocumented alien message of August 4, 1977, over 240,000 alien benefit applications were backlogged.

INS appears increasingly to be faced with a serious conflict in principle in the administration of the immigration laws. First, INS is required by its interdiction mission to undertake more restrictive enforcement efforts to deter alien entry and to increase deportation. At the same time, in administering the Immigration and Nationality Act, INS must exercise extraordinary discretion in deciding sensitive

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issues of human rights, with both the appearance and substance of fair and evenhanded justice. Important questions of fair play and humane administration of immigration laws are directly involved, often with persons who do not speak English and who have little education. In meeting these dual responsibilities, it can be argued that INS assumes the role of police officer, prosecutor, and judge.

4. Any effort to make land border enforcement effective without enforcement of the air and sea borders simply invites an increase of smuggling by air and sea. Current intelligence estimates indicate that some 4,000 to 6,000 illegal smuggling flights cross the Southern border each year. In the southern California area alone there are over 200,000 small boats, many of which regularly travel between Mexican and U. S. waters, while in the Miami area there are some 47,000 small craft, many of which regularly travel to the Bahamas. An air and marine interdiction capability is an important factor in any overall border management concept. At present this capability appears insufficient, with Customs attempting to obtain the resources to carry out effective border interdiction at sea and in the air. The U. S. Coast Guard, as the civilian maritime agency with general law enforcement responsibility, is empowered both with the legal authority and operating capabilities to assume a preeminent

enforcement role in the waters and related air space adjacent to our borders. However, except in the Miami Region, the Coast Guard conducts few self-initiated patrols or other activities in direct support of a border enforcement mission, i.e., anti-smuggling or interdiction of drugs, contraband and undocumented aliens. Only a small percentage of Coast Guard resources is devoted to law enforcement. As a result, large sea and air gaps exist in our border defenses against narcotics, contraband, and to a lesser extent, undocumented aliens.

5. There is substantial duplication and inconsistency in the visa application and approval activities of the State Department and the INS border admissions process.

These general findings form the framework within which the major organizational issues in the border management area should be considered. These issues are:

1) What organizational arrangement is most appropriate for border management activities?

2) If a border Management Agency is established, what departmental location is most suitable--Treasury or Justice?

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3) What actions should be taken to ensure that border management is supported by necessary air and marine interdiction capabilities?

4) What actions should be taken to ensure that the visa issuance and border admission functions are consistently and effectively carried out?

In the following section, these issues are discussed more fully and alternative solutions presented together with brief outlines of their apparent advantages and disadvantages.

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ISSUES AND ALTERNATIVES

ISSUE I

What organizational arrangement is most appropriate for border management activities?

DISCUSSION

Both Customs (Treasury) and INS (Justice) now have separate major patrol and port inspection units which perform comparable duties, operate in the same manner, often in the same location at the same time, employ similar enforcement techniques, and require the same type of support systems and facilities. As a result of past studies and the recent ODAP review, there is a general recognition that the fragmentation and duplication in the present organizational arrangement of patrol and inspection functions hinder effective border control. Among the findings of the ODAP study relevant to this issue are the following:

- There is a significant duplication of management overhead between INS and Customs at most ports of entry.

- The most obvious inspection problems are the duplication of effort and the management difficulties associated with duplicate inspection processes.

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- Levels of interagency cooperation vary, but there is a general sense of conflicting priorities and less than full cooperation between agencies (although the current Commissioners both of INS and Customs have made great efforts to encourage cooperation).

- The major shortcoming in the patrolling function is the duplication of effort and lack of cooperation between the Border Patrol and the Customs Patrol on the Southwest border.

- Some agency support activities are duplicative but are not, in themselves, likely candidates for consolidation. However, consolidation of the patrol and inspection functions of the principal agencies (Customs and INS) would allow consolidation of the major support activities.

The ODAP study concludes that:

> "A merger of the principal border enforcement agencies would significantly reduce overlap and duplication of effort and greatly enhance the overall effectiveness of border operations. It would allow management greater flexibility in responding to peak workloads and to immediate crises. A single border management agency would also allow consolidation of management and support functions which should create significant savings."

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Although not commenting directly on the merits of a single border management agency, GAO, in a December, 1977, study entitled "Illegal Entry at United States-Mexican Border--Multi-Agency Enforcement Efforts Have Not Been Effective in Stemming the Flow of Drugs and People," reported similar findings:

- Border forces have not intercepted significant quantities of heroin and cocaine and too little is known about how drugs enter the country.

- Although increasing numbers of aliens are being caught, "the border is a revolving door."

If anything, PRP's review indicates that the findings of ODAP and GAO understate the serious extent of the problems. Duplication in some areas clearly hampers the effectiveness of either agency. Narcotics slip through ports of entry because of the confusion and delay inherent in the duplicate inspection process carried out by INS and Customs at international airports.

In proposing solutions to these problems, PRP offers for consideration the following range of organizational alternatives:

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Alternative 1 - Make no organizational change but improve coordination and increase resources to selected functions and agencies.

To respond to mounting border problems, the following operational areas require improved interagency coordination, the infusion of added resources, or a combination of both: Customs and INS must coordinate inspection activities at ports of entry and patrol activities along the border between ports; Customs and the U. S. Coast Guard must coordinate border enforcement responsibilities to provide an air and marine interdiction capability, and INS and State must coordinate the screening of persons seeking to enter the United States to ensure the uniform and consistent application of immigration law.

ADVANTAGES

- Least disruptive of all options in that existing organizational structures remain unchanged.

- Provides additional resources to specific problem areas.

- Permits agencies to continue emphasis in areas of specific expertise.

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DISADVANTAGES

- Does not treat border management as an organizational system, but continues the fragmented approach of the past.

- Continues a form of crisis management focusing only on current problems.

- Continues duplicative management and support structures and overlapping responsibilities with loss of economies which could result from consolidation.

Alternative 2 - Combine and unify the patrol functions of Customs and INS in one department (Justice or Treasury); and the inspection functions of Customs and INS in the other department (Treasury or Justice).

This option would minimize jurisdictional and geographical overlap by focusing one agency on a specific function of border control. It would place responsibilities and resources dedicated to the inspection function in either Customs or INS with patrol responsibilities and resources assigned to the other.

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ADVANTAGES

- Responds to overlap and duplication in selected functions of border control.

- Provides single-manager responsibility for discrete functions of border control.

- Causes minimal disruption to existing organizational structures.

DISADVANTAGES

- Fails to recognize the interrelationship of patrol and inspection functions to overall border management.

- Continues duplicative management and support structures.

- Does not provide single-manager accountability in border management.

- Does not separate law enforcement functions from regulatory functions in either agency.

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Alternative 3 - Establish a Border Management Agency in Treasury or Justice containing: 1) the patrol functions of Customs and INS in one unit; 2) the inspection functions of Customs and INS in another unit; and, 3) the remaining functions and support activities of either Customs (if in Treasury) or INS (if in Justice). The agency (Customs or INS) no longer having inspection or patrol responsibilities would retain its organizational identity in its present department, and would continue to perform its non-border regulatory functions.

This option identifies patrol and inspection as the principal border enforcement functions and recognizes the dual systems for these functions in both Treasury and Justice as the principal source of fragmentation, duplication of effort and interagency conflict. Alternative 3 would merge the two separate patrols into one unit and the two separate inspection forces into one unit, and place both within the same Border Management Agency. The unified patrol would continue to investigate alien smuggling rings according to the present practice of the U. S. Border Patrol. Investigations related to adjudication and other regulatory functions would continue to be performed by the present INS investigations units to support non-border regulatory functions. This option would encourage innovation in the separate regulatory functions, such as possible use of ombudsmen and local advisory councils.

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ADVANTAGES

- Provides a single manager responsible for the major functions of inspection and patrol.

- Responds to existing operating problems of overlap, duplication, and fragmentation of effort by organizationally recognizing the interrelationships and interaction between the patrol and inspection functions.

- Responds to current interagency problems of coordination, competition, and parochialism.

- Provides opportunity for substantial gains in efficiency and effectiveness.

- Allows for separation of regulatory and administrative law functions from border enforcement functions.

DISADVANTAGES

- Would create some personnel turbulence and disruption during changeover.

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- Transfers traditional enforcement functions from one department.

- Separates regulatory functions of at least one agency from enforcement functions, thereby requiring interdepartmental coordination.

Alternative 4 - Establish a Border Management Agency in Treasury or Justice by combining all of Customs and INS.

This alternative would provide single management of all INS and Customs functions, including those not directly related to border management. The new agency head would be responsible for designing and managing the consolidation of functions and for the ultimate performance of the new organization. Implicit in Alternative 4 is the assumption that all Immigration and Customs functions are sufficiently related to border operations to justify their inclusion in a border-oriented agency. The consolidated agency would have broad responsibilities for both Immigration and Customs activities in the interior of the United States and overseas, as well as in the border areas.

ADVANTAGES

- Provides central management for principal border enforcement functions.

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- Responds to existing operating problems of overlap, duplication, and fragmentation of effort by providing central control.

- Recognizes the interrelationships of border management functions; such as, inspection, patrol, and support services.

- Eliminates current interagency problems of coordination, competition, and parochialism.

DISADVANTAGES

- Would create some personnel turbulence and disruption during changeover.

- Transfers traditional functions from one department.

- Requires the transfer of a number of functions which are not directly related to border management.

- Fails to distinguish regulatory or administrative law functions which might be improved by separation from border enforcement activities.

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ISSUE II

If a Border Mangement Agency is established, what departmental location is most suitable--Treasury or Justice?

DISCUSSION

Because of the importance of the departmental affiliation of any Border Management Agency, this issue, though related to Issue I, should be considered separately.

While there is agency consensus that border control problems are serious enough to require some organizational change, there is little support for the creation of a new, independent, and separate Border Management Agency. On the contrary, the consensus is that both the Departments of Justice and Treasury have the types of personnel, organizational framework, and management capability to assume any border enforcement responsibilities that might be consolidated.

The Departments of Justice (INS) and Treasury (Customs) exercise traditional authorities which allow both to maintain a highly visible presence at the borders through uniformed inspection and patrol forces. The Justice inspection function (INS) involves the examination of persons and documents to determine admissibility of persons to the United States, focusing upon the illegal entry of aliens. U.S. citizens,

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who represent approximately 45 percent of those entering, must submit only to a cursory inspection by INS.

The Treasury Department devotes approximately three times more resources to inspection than the Department of Justice. The Treasury inspection function involves the inspection of all persons without regard to citizenship and applies also to general merchandise and carriers at the point of entry. Treasury is responsible for: (a) collecting appropriate duties and taxes; (b) ensuring that merchandise meets the admissibility requirements of more than 40 government agencies; (c) ensuring compliance with navigation laws and other carrier control regulations and requirements; and (d) preventing smuggling.

Justice, through its U.S. Border Patrol, and Treasury, through its U.S. Customs Patrol, each maintains uniformed patrol forces along our borders. A Treasury Patrol force is also located at the ports of entry. As in the case of inspection, the Justice patrol force is primarily concerned with persons seeking illegal entry while the Treasury patrol force is concerned with the smuggling of contraband and the physical security of ports.

Based on FY 78 budget figures, the approximate numbers of personnel involved in these activities are:

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	Customs	INS	Total
Inspectors	4400	1450	5850
Patrol	1500	2200	3700
TOTAL	5900	3650	9550

Both Customs and INS have either developed or have under development separate computer and communications systems to support their border operations. Treasury has an operational computer system to identify wanted or suspected Federal violators; INS does not. Customs has devoted more resources to its systems to date and has developed considerable expertise in their planning, design, implementation, and management. While INS has devoted substantial resources to computer systems development, none of its central data bases is as yet directly retrievable by computer terminals in the field.

ALTERNATIVES

Alternative 1 - Place the Border Management Agency within the Department of Justice.

ADVANTAGES

- Locates within a single department the administrative, adjudicatory, and law enforcement responsibilities for aliens.

- Provides for an integrated, efficient Federal effort by concentrating more border responsibilities in Justice. Justice already has primary responsibility for the principal border problems of drugs and aliens.

- Facilitates coordination with the Drug Enforcement Administration.

- Recognizes that Justice already maintains a strong border enforcement organization in the U.S. Border Patrol.

DISADVANTAGES

- Concentrates primary law enforcement authorities in one department.

- Could separate the Customs revenue collection function from other revenue functions in Treasury.

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- Could require transfer of a larger organizational entity (Customs) to join a smaller one (INS).

- Entails the transfer of functions from a multi-purpose organization (Customs) to a single-purpose organization (INS).

Alternative 2 - Place the Border Management Agency within the Department of the Treasury.

ADVANTAGES

- Recognizes Treasury's almost 200-year experience in some aspects of border management, its current responsibility for a range of border management functions and its traditionally strong support for border operations.

- Acknowledges Treasury's present capacity in supporting the border requirements of 40 or more agencies and the adaptability of its management structure, resources, and support systems for administering border enforcement operations, including illegal alien responsibilities.

- Divides major enforcement responsibilities between Treasury and Justice consistent with the constitutional precept of "checks and balances," avoiding the concentration of police power in any single agency of government.

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DISADVANTAGES

- Could disrupt the continuum of the immigration process which now gives INS jurisdiction over most aspects of alien status.

- Would require close interagency coordination between Treasury and Justice on drug and, possibly, alien problems.

- Divides primary enforcement responsibilities between Treasury and Justice, continuing fragmentation in the Federal justice system.

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ISSUE III

What actions should be taken to ensure that border management is supported by necessary air and marine interdiction capabilities?

DISCUSSION

The extent of the land borders and coastline--roughly 96,000 miles--provides relatively easy access to the United States by land, sea, and air. While air and marine operations presently represent secondary considerations in viewing problems of border control, they are nevertheless important ones. At present the Coast Guard and Customs play a largely undefined role in air and marine interdiction, with Customs undertaking increasingly greater program initiatives and the Coast Guard furnishing limited support in response to specific requests for assistance.

The U. S. Coast Guard is the only civilian Federal agency equipped and authorized to provide full marine and air support to civilian law enforcement agencies. The Coast Guard at one time performed all the functions of both the immigration and Customs patrols in certain coastal areas and today exercises plenary jurisdiction for enforcement of all laws both on the high seas and our inland waterways.

However, in recent years, the Coast Guard has gradually deemphasized its law enforcement role. It devotes only minimal resources to border

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control activities, carries no firearms on many of its vessels, and performs few regular patrol operations in proximity to the land borders of the United States. While the Coast Guard remains responsive to specific requests for assistance by other enforcement agencies, it undertakes few initiatives in performing any border law enforcement function. Its operational emphasis has clearly shifted toward programs such as search and rescue, aids to navigation, and boating safety. The Coast Guard, in short, now has no priority program, objective or strategy throughout its 12 districts for the protection of U. S. waters or coastline against entry of drugs, aliens, or the smuggling of contraband. The result has been a noticeable void in Federal maritime efforts to control the borders. To partially fill this void Customs has begun a boat and aircraft acquisition program, requiring an increasing funding level.

The issue is whether to alter the Coast Guard's mission and commit its resources to an increased role in marine and air interdiction in support of border management activities, or to increase the resources provided to either Customs or a new Border Management Agency to play such a role. A secondary but important issue is where to house the Coast Guard should the decision be taken to alter its priorities. Factors to be considered in arriving at a decision are: 1) the limited law enforcement role actually performed by the Coast Guard at present and its major

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responsibilities in other areas; 2) the substantial duplication of equipment and resulting costs associated with building a marine and air support capability in either Customs or a new Border Management Agency; and 3) the implications of realigning a large, multi-purpose agency such as Coast Guard to support the more narrow enforcement programs of a Border Management Agency or Customs.

ALTERNATIVES

Alternative 1 - Make no change in present structures or emphasis for the Coast Guard; give increased resources to Customs or a new Border Management Agency to allow development of a strong air and marine support capability for border enforcement operations.

ADVANTAGES

- Establishes and fixes accountability for border enforcement and perimeter security in one agency.

- Allows Border Management Agency or Customs to acquire boats and planes with the specific type of equipment needed to support border enforcement operations.

- Allows Coast Guard to continue to assist border management functions on a request basis--e.g., interception of vessels on the high seas.

- Ensures that the non-border and non-enforcement missions of the Coast Guard continue to receive emphasis.

DISADVANTAGES

- Fails to fully utilize the existing enforcement authority and plenary jurisdiction of the U. S. Coast Guard; thus, would allow further diminution of U. S. Coast Guard role in U. S. territorial waters.
- Requires either Customs or new Border Management Agency to expand costly air and marine support programs.
- Makes close coordination necessary between Coast Guard and another agency with expanded maritime enforcement jurisdiction to avoid overlap and duplication in enforcing U. S. laws.

Alternative 2 - Redefine the Coast Guard's primary operational role as one of providing high priority close support to the Customs or Border Management Agency, and leave the Coast Guard within the Department of Transportation.

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ADVANTAGES

- Avoids the need to duplicate expensive, sophisticated hardware for Customs or a separate border enforcement agency.

- Preserves the relationship between Coast Guard and Transportation for carrying out maritime programs.

- Allows the non-border and non-enforcement missions of Coast Guard to continue to receive some emphasis.

- Avoids the disruption of an interdepartmental transfer.

DISADVANTAGES

- Requires Coast Guard to choose between competing and sometimes conflicting priorities in meeting multi-mission responsibilities.

- Provides for increased utilization of Coast Guard air and marine support for border management efforts to the possible diminution or detriment of other non-border, non-enforcement programs.

- Presents agency conflicts over methods of deploying Coast Guard if separate departments utilize Coast Guard capabilities to support their programs.

Alternative 3 - Transfer the Coast Guard intact to the same Cabinet Department in which the Border Management Agency is to be located, if such an agency is established.

ADVANTAGES

- Places Federal responsibility for all principal border functions in a single department.
- Ensures a high priority for the border law enforcement role within the U. S. Coast Guard.
- Significantly increases the total amount of resources available for border management functions.
- Provides for the assimilation or elimination of separate Customs Marine and Air Patrol activities.

DISADVANTAGES

- Could cause an adverse impact on other responsibilities of the U. S. Coast Guard, such as icebreaking, aids to navigation, and boating safety, if increased emphasis is placed on border law enforcement responsibilities.

- Could tend to have adverse impact on the Coast Guard's morale and sense of mission, since it was transferred from Treasury to Transportation as recently as 1966.

- Would seriously hamper Transportation's objective of developing an integrated maritime program.

ISSUE IV

What actions should be taken to ensure that the visa issuance and border admission functions are consistently and effectively carried out?

DISCUSSION

In addition to the duplication in inspection at the borders there is an added duplication created by the so called visa "dual check" system. Aliens are screened abroad during the visa application stage, and then must submit to a separate _de novo_ determination by INS upon arrival. (At either step of the admissions process, the person may be denied entry for identical reasons.) The result is an often inconsistent application of the immigration laws.

Prior to 1924, the dual system did not exist, and the desirability of such a system has been questioned periodically since that time. Some object to the need for a visa system at all (most Western European countries no longer require prior visas); others feel that the functions should not be divided between two separate agencies; and still others think that visas should only be required for the approximately 250,000 immigrants each year, rather than the approximately 3,750,000 non-immigrants who are now issued visas annually. The Hoover Commission

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(1952); the Commission on Government Security (1957); the Domestic Council Committee on Illegal Aliens Report (1976); and, a number of GAO studies have all made recommendations for change in the organizational placement or operation of the visa function.

With the growth of international travel, the issuance of visas has increased by about 100 percent over the last 10 years. U.S. visa denials now exceed 300,000 annually, while almost 50,000 persons (35,000 crewmembers) holding visas are denied admission at ports of entry. Visas are not required for short tourist visits by Canadians. Regular border crossers, most of whom are Mexicans, are issued special entry permits called Border Crossing Cards without having to obtain formal visas for each entry. Most port of entry denials (about 750,000 per year) are applicants without visas who seek entry from Mexico or Canada, and most of these entry denials are for economic reasons. Any reorganization of the current inspection system operating at our borders should take into account the current system for visa issuance which is, in effect, an extension of border regulation. The growing and serious problem of undocumented aliens has served to highlight perceived problems in our system of admission. Concerns for promoting international travel and various exchange programs compete with concerns for stricter measures at the border to prevent wholesale violations of the immigration laws.

ALTERNATIVES

Alternative 1 - Retain the visa function within the Department of State and develop better coordination with INS.

As with any other status quo recommendation, this alternative involves the least amount of organizational disruption and recognizes the deterrent effect of a dual-check system. It also assumes that the sensitivity of visa issuance is an overriding foreign policy concern requiring the Department of State to remain directly involved. Improved coordination would stress more cross-training of personnel, expanded communications emphasizing consistency in procedures and regulations, and joint planning for support systems.

ADVANTAGES

- Maintains the historical dual-check system to provide for separate assessments by two different agencies.

- Recognizes the flexibility of Department of State programs as better suited to accommodate foreign language fluency associated with the visa function.

- Preserves any link between the visa issuance function and the conduct of foreign policy.

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- Makes it unnecessary to expand the operational role of another agency abroad.

DISADVANTAGES

- Risks the visa function receiving the same relatively low priority which historically has been placed on it by the Department of State.
- Creates difficulties in coordinating admissions policy between two administrative systems.
- Requires maintaining an enforcement and regulatory activity of a type that is not often maintained by the State Department.
- Fails to place policy direction and decision making governing immigration matters within a single agency.

Alternative 2 - Place the visa function within INS to fix accountability for the uniform administration of immigration policy.

This alternative assumes that joining visa issuance with the administration of related immigration programs within INS would give more emphasis to the regulatory feature of visa screening; under such a system; nevertheless, the Department

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of State would continue to issue diplomatic visas. In all low volume visa issuance posts, Department of State personnel would continue to issue visas based on authority delegated from INS on a client basis, as State now does for many other agencies, but INS would establish policy as to issuance of all non-diplomatic visas.

ADVANTAGES

- Provides for more uniform and consistent application of immigration law governing the issuance of visas.

- Places related immigration policy functions under one head--fixes accountability.

- Enhances preventive aspects of visa issuance function by placement in an agency with similar program concerns and orientation.

DISADVANTAGES

- Diminishes importance and visibility of State's Consular Affairs program.

- Expands the overseas role of another domestic agency.

- Reduces impact of foreign policy considerations now implicit in State's administration of this aspect of immigration law.

PRESIDENT'S
REORGANIZATION
PROJECT

WASHINGTON, D.C. 20503

FEDERAL LAW ENFORCEMENT, POLICE AND INVESTIGATIVE ACTIVITIES: A DESCRIPTIVE REPORT

EXECUTIVE OFFICE OF THE PRESIDENT · OFFICE OF MANAGEMENT AND BUDGET

THE WHITE HOUSE
WASHINGTON

June 29, 1977

MEMORANDUM FOR THE HEADS OF
EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Comprehensive Review of Federal Law Enforcement

I have directed my Reorganization Project staff at the Office of Management and Budget to begin a comprehensive review of all Federal law enforcement missions, tasks, and priorities.

Today there is considerable jurisdictional ambiguity, overlap, and possible duplication among Federal organizations performing police or investigative activities. There are at least 75 different Federal agencies and 164,000 Federal employees involved in police or investigative work. Our goal is to make these functions more responsive to both individual rights and Federal law enforcement priorities. This effort will help us determine how best to structure these agencies to do so.

A major objective will be to re-examine the Federal role in law enforcement in light of the responsibilities and capabilities of State and local agencies. The Federal Government ought not to duplicate or overlap State and local law enforcement functions unnecessarily.

The Project will rely heavily on the advice and counsel of the Congress, Federal Departments and Agencies, State and local officials, interested private organizations, and the public.

You may be asked to contribute time, resources, and staff assistance to this effort. If so, I hope you will make your best effort to ensure its successful completion.

My Reorganization Project staff will contact you or an appropriate member of your staff shortly to discuss the appropriate role of your department or agency in the study.

I consider this to be a high priority matter. I know I can count on your cooperation and assistance.

In order to inform all affected parties that this review is underway, I have directed that this memorandum be published in the Federal Register.

Jimmy Carter

EXECUTIVE SUMMARY OF FEDERAL LAW ENFORCEMENT, POLICE AND INVESTIGATIVE ACTIVITIES: A DESCRIPTIVE REPORT

In June 1977, President Carter instructed his Reorganization Project to conduct a comprehensive review of all Federal law enforcement missions, tasks and priorities. Because no comprehensive study of Federal law enforcement had been made in at least 40 years, the Project first surveyed all Federal organizations that were found to be conducting law enforcement activities, including police and investigative work.

This report contains the results of that survey. It is primarily descriptive in nature, but includes some basic analysis. The President's Reorganization Project hopes that this Descriptive Report will be useful, not only to the Project staff making recommendations to the President concerning certain problems that have been identified, but also to the heads of departments and agencies in the Executive Branch charged with carrying out the enforcement of particular laws, and to the Legislative and Judicial Branches. This Executive Summary briefly describes the report itself and lists certain problem areas that surfaced as a result of a preliminary study of the data.

An important fact apparent from the report is the almost total lack of coordination of Federal law enforcement activities today. Perhaps it is a result of a meteoric growth in the number of Federal law enforcement agencies apart from the traditional agencies such as the FBI and the Secret Service. Perhaps it is an indication that the benefits specially created for law enforcement personnel have encouraged organizations to form law enforcement units so that their law enforcement employees will be eligible for these benefits. Perhaps it grows from an increasing tendency to have separate bureaucratic units which provide complete service to a particular clientele -- from regulation through implementation of programs, to hearings, adjudications and assessments of penalties -- rather than relying on other parts of the Executive Branch for assistance. Perhaps it is in response to concerns that civil liberties not be compromised by a large and centralized Federal police activity. Whatever the cause, it is clear that Federal law enforcement today is uncoordinated.

A second fact apparent from the report is the extensive distribution of resources devoted to Federal law enforcement, police and investigative activities. Almost 10 percent of the civilian employees of the Executive Branch are involved. Over $5 billion will be devoted directly to these efforts at the Federal level in FY 1978.

Interestingly enough, over one-third of the 113 agencies surveyed did not exist at the beginning of 1970. The record shows that the larger, traditional law enforcement organizations are growing at a much slower rate than the newer organizations. The 12 primary law enforcement organizations saw budget increases in FY 1978 of 7 percent, while the other organizations with law enforcement activities saw increases double that.

A third fact clearly emerges from a study of the Descriptive Report. Federal law enforcement policy-making now is fragmented or non-existent. For instance, there does not seem to be a consistent Federal policy defining the proper role of Federal law enforcement in dealing with the numerically much larger State and local law enforcement agencies. Questions of Federal priorities also emerge. The President has set organized crime, white collar crime, public corruption, and narcotics trafficking as the main Federal law enforcement priorities. The Descriptive Report indicates that a major part of the Federal resources are not now focused on these priorities.

The report also raises certain specific questions concerning structural or organizational problems. An example of a structural problem would seem to be the duplication which now exists in inspection at ports of entry into the United States and patrol between ports of entry. These functions are substantially duplicated by the Immigration and Naturalization Service in the Department of Justice and Customs Service in the Department of the Treasury. Another example involves explosives, arson, and firearms enforcement, which is divided between the Department of the Treasury and the Department of Justice.

Another area seemingly in need of new policy direction involves personnel security investigations. Over 30 separate organizations indicated that they conduct these investigations. The direct cost in FY 1976 exceeded $100 million for the investigations alone, excluding the cost of responding to these investigative requests by agencies and personnel of the Federal Government and private industry. The policy for these investigations grows out of a 1954 Executive Order, Executive Order 10450, which was designed to meet needs of that time. It would seem that some policy change might be considered to better focus the Federal efforts in these investigations.

This report is an accumulation of the basic data submitted by Federal law enforcement agencies. In April 1978, the report was circulated in draft form to the organizations participating in the survey for validation and comment, and many of their comments and suggestions have been incorporated. This Descriptive Report is intended to provide a picture of the nature and extent of Federal law enforcement activities; personnel, financial and physical resources; program management; Federal, State and local responsibilities; and other matters. A brief overview of each of these areas follows.

PROBLEM AREAS

At least four broad problem areas are suggested by the information in the Descriptive Report. These problem areas are presented below. Attachment 3 to this report contains more detailed findings relating to each problem area.

I. Coordination

The present Federal law enforcement "system" is a loose, uncoordinated grouping of agencies that perform law enforcement, police and investigative activities. These agencies are located in every Department and Branch of the Federal Government. The lack of coordination and absence of policy direction cause wasted efforts and reduced effectiveness, without any discernible civil liberties benefit.

II. The Federal Role in Law Enforcement

The Federal role in law enforcement vis-a-vis State and local roles has never been well-defined. As a result, much Federal effort is spent in areas which duplicate traditional State and local jurisdiction, with resulting waste of both Federal and other governmental resources.

III. Law Enforcement Support

There is much duplication in providing support services for Federal law enforcement organizations, including radio communications, facilities, equipment, laboratories and personnel training. This leads to unnecessary cost and effort.

IV. Border Management

There is little accountability for management of the U.S. borders, as demonstrated by the duplication of efforts in inspections at ports of entry and patrol between ports of entry.

ATTACHMENT 3

PROBLEMS AND FINDINGS

I. Coordination

Problem Area: The present Federal law enforcement "system" is a loose, uncoordinated grouping of agencies that perform law enforcement, police and investigative activities. These agencies are located in every Department and Branch of the Federal Government. The lack of coordination and absence of policy direction cause wasted efforts and reduced effectiveness, without any discernible civil liberties benefit.

Findings which relate to this problem area:

1. There is no mechanism to: (a) establish policies; (b) set priorities; (c) plan strategy; (d) establish clear lines of authority and jurisdiction for Federal organizations with law enforcement responsibilities; (e) resolve jurisdictional disputes when they occur; (f) implement policies and strategies for national priority law enforcement programs; (g) evaluate how Federal law enforcement programs impact on State/local law enforcement agencies; (h) develop a government-wide system for measuring performance of Federal law enforcement programs or personnel.

2. The similarity of criminal investigative activities conducted by many different Federal organizations results in duplication of effort, including unproductive use of personnel and financial resources.

3. There are new law enforcement programs being planned by Federal organizations which are duplicative and result from the absence of a coordinative mechanism at the Federal level.

4. There is considerable fragmentation at the Federal level in combating organized crime, white collar crime, public corruption and terrorism.

5. There is a large number of Federal organizations performing protective services for Federal facilities and property, with minimal coordination and an apparently significant duplication of efforts.

6. Some Executive Departments have no single official or central unit responsible for coordinating each Department's law enforcement activities.

7. Most Executive Departments have no formal written directives or policy system by which to manage their law enforcement activities.

II. The Federal Role in Law Enforcement

Problem Area: The Federal role in law enforcement vis-a-vis State and local roles has never been well-defined. As a result, much Federal effort is spent in areas which duplicate traditional State and local jurisdiction, with resulting waste of both Federal and other governmental resources.

Findings which relate to this problem area:

1. There are substantial jurisdictional overlaps among Federal/State/local law enforcement activities.

2. There are numerous law enforcement agreements between Federal organizations and State and local agencies, but little data exist to determine the cost-effectiveness or to measure the quality of services provided.

3. Federal law enforcement organizations have not encouraged State and local agencies to assume more responsibilities in areas where there is presently concurrent jurisdiction with the Federal Government.

4. There are no uniform standards for training or other support services provided by Federal organizations to State/local law enforcement agencies.

III. Law Enforcement Support

Problem Area: There is much duplication in providing support services for Federal law enforcement organizations, including radio communications, facilities, equipment, laboratories and personnel training. This leads to unnecessary cost and effort.

indings which relate to this problem area:

1. No effective effort has been made by the Federal Government to consolidate law enforcement support services, although consolidation could probably result in sizable cost savings, and there is no consistent reimbursement practice among organizations for providing or receiving support services.
2. There are no uniform standards for using either Government or non-Government contract services, and the aggregate costs, personnel figures, quality criteria or other management control data for such services are not known.
3. Even though law enforcement is not the main mission of Survey I organizations, a substantial number of them are providing investigative and protective/security support services to other agencies.
4. There is a large number of independent law enforcement training facilities with little or no coordination among the agencies administering these facilities, and no existing minimum training standards.
5. No control mechanism exists at the Federal level to assure that there are relevant, uniform or minimum standards for determining and maintaining suitability of law enforcement personnel; uniform application of selection standards; government-wide career development programs; or fair and equitable basic compensation levels, overtime pay and special retirement benefits. This problem is further compounded by the existence of approximately 20 different personnel systems.

6. It appears that major law enforcement organizations do not adequately share their existing facilities and equipment, coordinate their acquisitions of facilities and equipment, or coordinate telecommunication systems research and development efforts with other appropriate Federal organizations.

7. The use of Federal law enforcement radio communications systems and laboratory facilities is duplicative and overlapping.

8. Although it appears there is a surplus of computer capacity available to Federal organizations with law enforcement activities, many of these organizations listed the need for additional computer facilities and, under prevailing circumstances, a significant investment for additional systems is expected in the next several years without any interagency coordination.

9. Organizational policies and procedures related to the Freedom of Information and Privacy Acts are based on individual agency implementation practices and hinder effective information sharing and cooperation among Federal law enforcement organizations.

10. The shared responsibility for the enforcement and investigation of explosives and firearms laws between two organizations results in significant jurisdictional problems, including overlap and duplication of functions and conflict of objectives.

IV. Border Management

Problem Area: There is little accountability for management of the U.S. borders, as demonstrated by the duplication of efforts in inspections at ports of entry and patrol between ports of entry.

Findings which relate to this problem area:

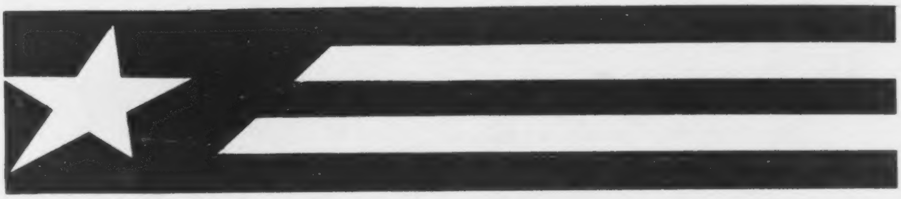
1. Both the Customs Service (Treasury) and the Immigration and Naturalization Service (Justice) patrol the land borders and conduct inspections at the ports of entry. This duplication of effort and the lack of coordination between the two agencies hamper effective border management.

2. These two agencies use different radio frequencies, making communication between patrol forces difficult, and use entirely separate systems for identifying violators at the ports of entry, which is a wasteful and ineffective practice.

3. The division and fragmentation of border responsibilities between Customs and INS make it difficult to target Federal resources to meet crises and special needs.

4. Many persons outside the country seeking entry into the U.S. must submit to separate screenings for a determination of their admissability -- one by the Consul (State) for a visa, and one by the Immigration and Naturalization Service for admission at the border. This lack of coordination and unclear division of responsibility create waste and inconvenience, because the same information is collected several times, and the determinations of the agencies are at times in conflict.

5. No Federal agency has both the responsibility and the resources to protect the Nation's air borders.



U.S. Immigration Policy and the National Interest

The Final Report and Recommendations
of the Select Commission on Immigration and Refugee Policy
to the Congress and the President of the United States

March 1, 1981

84-705 - 470

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

LETTER OF TRANSMITTAL

March 1, 1981

The Honorable Ronald W. Reagan
President of the United States
The Honorable Strom Thurmond
President pro tempore, United States Senate
The Honorable Thomas P. O'Neill, Jr.
Speaker, U.S. House of Representatives

On behalf of the Select Commission on Immigration and Refugee Policy, I am submitting its final report as directed by Public Law 95-412.

We believe that this report, along with the Commission's separately printed record of hearings, reports and research studies will provide the basis for the development of a sound immigration and refugee policy in the years to come.

As Commissioners, we have been well aware that this is not just another study commission. We have been fully conscious from the start of the need for fundamental reform of our immigration and refugee law and the development of a sound, coherent, responsible policy which serves the interests of the United States and is true to the deepest and best values and traditions of its citizens.

Our work could not have been done without the effective cooperation of many individuals who worked on the staffs of U.S. government agencies and both Houses of Congress, the contributions of dozens of consultants who participated in 21 special consultations and over 700 witnesses who testified at 12 regional public hearings.

I particularly want to thank my fellow Commissioners for their cooperation. And I would like to say at this time that the Commission is deeply indebted and grateful to our Executive Director, Dr. Lawrence H. Fuchs, and to his dedicated colleagues for the intelligent efforts and long hours of work that made this report possible.

Respectfully,

Theodore M. Hesburgh

(Rev.) Theodore M. Hesburgh, C.S.C.
Chairman

MEMBERS

OF THE SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

Appointed by the President of the United States

The Reverend Theodore M. Hesburgh, President, University of Notre Dame[*]
Rose Matsui Ochi, Executive Assistant to the Mayor of Los Angeles
Joaquin Francisco Otero, Vice President, Brotherhood of Railway and Airline Clerks
Judge Cruz Reynoso, Associate Justice, California Court of Appeals

Cabinet Members[/]

Benjamin Civiletti, Attorney General[≠]
Patricia Roberts Harris, Secretary of Health and Human Services[§]
F. Ray Marshall, Secretary of Labor
Edmund S. Muskie, Secretary of State[//]

Appointed by the President of the Senate of the United States

Dennis DeConcini (D-Arizona)
Edward M. Kennedy (D-Massachusetts)
Charles McC. Mathias, Jr. (R-Maryland)
Alan K. Simpson (R-Wyoming)

Appointed by the Speaker of the House of Representatives of the United States

Hamilton Fish, Jr. (R-New York)
Elizabeth Holtzman (D-New York)
Robert McClory (R-Illinois)
Peter W. Rodino, Jr. (D-New Jersey)

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[*] Replaced the Honorable Reubin O'D. Askew on October 11, 1979.

[/] Public Law 95-412 stipulates that the Secretary of State, the Attorney General, the Secretary of Labor and the Secretary of Health and Human Services shall serve on the Select Commission on Immigration and Refugee Policy. The following were members of the Commission but did not participate in its deliberations:
Alexander M. Haig, Secretary of State
William French Smith, Attorney General
Raymond J. Donovan, Secretary of Labor
Richard S. Schweiker, Secretary of Health and Human Services

[≠] Replaced W. Griffin Bell on August 16, 1979.

[§] Replaced Joseph A. Califano, Jr. on August 3, 1979.

[//] Replaced Cyrus R. Vance on May 8, 1980.

EXECUTIVE SUMMARY
RECOMMENDATIONS OF THE
SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

SECTION I. INTERNATIONAL ISSUES

I.A. Better Understanding of International Migration

The Select Commission recommends that the United States continue to work with other nations and principal international organizations that collect information, conduct research and coordinate consultations on migratory flows and the treatment of international migrants, to develop a better understanding of migration issues.

I.B. Revitalization of Existing International Organizations

The Select Commission recommends that the United States initiate discussion through an international conference on ways to revitalize existing institutional arrangements for international cooperation in the handling of migration and refugee problems.

I.C. Expansion of Bilateral Consultations

The Select Commission recommends that the United States expand bilateral consultations with other governments, especially Mexico and other regional neighbors regarding migration.

I.D. The Creation of Regional Mechanisms

The United States should initiate discussions with regional neighbors on the creation of mechanisms to:

- Discuss and make recommendations on ways to promote regional cooperation on the related matters of trade, aid, investment, development and migration;
- Explore additional means of cooperation for effective enforcement of immigration laws;
- Establish means for mutual cooperation for the protection of the human and labor rights of nationals residing in each other's countries;
- Explore the possibility of negotiating a regional convention on forced migration [illegible] expulsion of citizens; and

- Remove the current economic disincentives to hire U.S. workers by requiring, for example, employers to pay FICA and unemployment insurance for H-2 workers; and maintain the labor certification by the U.S. Department of Labor.

- The Commission believes that government, employers, and unions should cooperate to end the dependence of any industry on a constant supply of H-2 workers.

The above does not exclude a slight expansion of the program.

VI.F. Authority of the Attorney General to Deport Nonimmigrants

The Select Commission recommends that greater statutory authority be given to the Attorney General to institute deportation proceedings against nonimmigrant aliens when there is conviction for an offense subject to sentencing of six months or more.

SECTION VII. ADMINISTRATIVE ISSUES

VII.A. Federal Agency Structure

The Select Commission recommends that the present federal agency structure for administering U.S. immigration and nationality laws be retained with visa issuance and the attendant policy and regulatory mechanisms in the Department of State and domestic operations and the attendant policy and regulatory mechanisms in the Immigration and Naturalization Service of the Department of Justice.

VII.B. Immigration and Naturalization Service

VII.B.1. Service and Enforcement Functions

The Select Commission recommends that all major domestic immigration and nationality operations be retained within the Immigration and Naturalization Service, with clear budgetary and organizational separation of service and enforcement functions.

VII.B.2. Head of the INS

The Select Commission recommends that the head of the Immigration and Naturalization Service be upgraded to director at a level similar to that of the other major agencies within the Department of Justice and report directly to the

I.D. THE CREATION OF REGIONAL MECHANISMS*

THE UNITED STATED SHOULD INITIATE DISCUSSIONS WITH REGIONAL NEIGHBORS ON THE CREATION OF MECHANISMS TO:

- ° DISCUSS AND MAKE RECOMMENDATIONS ON WAYS TO PROMOTE REGIONAL COOPERATION ON THE RELATED MATTERS OF TRADE, AID, INVESTMENT, DEVELOPMENT AND MIGRATION;
- ° EXPLORE ADDITIONAL MEANS OF COOPERATION FOR EFFECTIVE ENFORCEMENT OF IMMIGRATION LAWS;
- ° ESTABLISH MEANS FOR MUTUAL COOPERATION FOR THE PROTECTION OF THE HUMAN AND LABOR RIGHTS OF NATIONALS RESIDING IN EACH OTHER'S COUNTRIES;
- ° EXPLORE THE POSSIBILITY OF NEGOTIATING A REGIONAL CONVENTION ON FORCED MIGRATION OR EXPULSION OF CITIZENS; AND
- ° CONSIDER ESTABLISHMENT OF A REGIONAL AUTHORITY TO WORK WITH THE U.N. HIGH COMMISSIONER FOR REFUGEES AND THE INTERGOVERNMENTAL COMMITTEE ON MIGRATION IN ARRANGING FOR THE PERMANENT AND PRODUCTIVE RESETTLEMENT OF ASYLEES WHO CANNOT BE REPATRIATED TO THEIR COUNTRIES OF ORIGIN.

Many immigration problems facing the United States are regional in nature. Among the most pressing are the undocumented entry of aliens seeking employment opportunities and the mass arrivals of those seeking first asylum. In recognition of these immediate hemispheric problems and the fact that regions have economic, political and other ties which make them possible units of cooperation, the Select Commission strongly supports the efforts listed above.

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*Commission vote

The Select Commission voted on a package of proposals which form Recommendations I.A. to I.D. Yes-16.

Regional Cooperation on Development Needs

Relative poverty affects a large number of this hemisphere's nations. Lacking opportunity, some migrants, notably those from the Caribbean Basin, have been willing to risk their lives in small, leaky boats rather than face economic deprivations at home. Without a change in policy (see Section II), the United States can expect the arrival of many people so desperate for better opportunities that they will use any means, legal or illegal, to improve their lot. Prosperity, or at least hope, for these nations will depend on serious, sustained attention to development. The Select Commission believes that discussions should be held to consider the means of promoting cooperation on the related matters of trade, aid, investment, development and the reduction of migration pressures. The Commission is of the opinion that mutual cooperation on these matters holds some promise in reaching solutions to migration problems if targeted to specific areas which are continuing sources of labor migration.

Regional Cooperation on Enforcement

While the great disparity between economic opportunities in the United States and many of its regional neighbors continues to exist, regional cooperation must also focus on programs for reducing the violation of U.S. immigration laws, including that of illegal entry. The Commission acknowledges that major, unilateral reforms are needed in U.S. immigration law and that the United States must institute its own improvements in domestic enforcement (See Recommendations II.A.1 to II.A.8). Nevertheless, cooperation with other nations, especially in curbing the smuggling of aliens, can make these enforcement efforts more effective.

Regional Cooperation on the Protection of Aliens

Several international organizations are concerned with the rights of international migrants. For example, the International Labor Organization has developed several recommendations and conventions dealing with protection of the rights of migrant workers.* The Select Commission supports these efforts on a regional level

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*As yet, very few countries have ratified these conventions.

SECTION VII. ADMINISTRATIVE ISSUES

Introduction

The agencies administering U.S. immigration and nationality laws, especially the Immigration and Naturalization Service (Department of Justice), are among the most beleaguered agencies in the federal government. The Select Commission has heard, along with some praise, a broad range of complaints about the INS and other agencies with immigration-related responsibilities, primarily the Visa Office and Consular Service of the Department of State.

The Commission recognizes that its recommendations for a new and better law must be implemented and administered effectively, efficiently and professionally. Although the Commission understands that many of the current problems facing INS and the Consular Service are attributable to ambiguities and inconsistencies present in the Immigration and Nationality Act itself, it acknowledges that the recommendations it has made for improving the law cannot by themselves successfully ameliorate the problems. Changes must also be made within the agencies to address specific structural, management and attitudinal problems.

VII.A. FEDERAL AGENCY STRUCTURE*

THE SELECT COMMISSION RECOMMENDS THAT THE PRESENT FEDERAL AGENCY STRUCTURE FOR ADMINISTERING U.S. IMMIGRATION AND NATIONALITY LAWS BE RETAINED WITH VISA ISSUANCE AND THE ATTENDANT POLICY AND REGULATORY MECHANISMS IN THE DEPARTMENT OF STATE AND DOMESTIC OPERATIONS AND THE ATTENDANT POLICY AND REGULATORY MECHANISMS IN THE IMMIGRATION AND NATURALIZATION SERVICE OF THE DEPARTMENT OF JUSTICE.

Over time, as needs have grown or changed, responsibility for administering immigration laws has been placed wherever appropriate systems already existed or where, at the time, it seemed most logical. As a result, eight cabinet departments now have immigration-related responsibilities (see Appendix E, Role of the Federal Government in Immigration and Refugee Policy). A study of the specific nature of the immigration responsibilities of the Immigration and Naturalization Service in the Department of Justice, the Consular Service and Visa Office in the Department of State, the Labor Certification Division in the Department of Labor, the Public Health Service in the Department of Health and Human Services, the U.S. Travel Service in the

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*Commission vote

Yes-10; No-3; Absent-2.

Department of Commerce, the Internal Revenue and Customs Services in the Department of the Treasury, the Plant and Animal Quarantine Service in the Department of Agriculture and the Coast Guard in the Department of Transportation has led the Select Commission to the conclusion that in all but the Departments of Justice and State, immigration responsibilities are relatively minor but integrally tied to broader agency mandates. The efficiency and effectiveness of overall immigration law administration would not be enhanced by removing these agencies or their immigration related functions from their parent departments.

Historically, attention has been given to the major, shared immigration responsibilities of the Departments of Justice and State. Periodically, recommendations have been made to transfer the visa issuance function from the Department of State to the Immigration and Naturalization Service in the Department of Justice, or to an independent agency which would house both the overseas and domestic immigration functions now assigned to the two departments. It has been argued that such a consolidation would alleviate the problems of occasional inconsistency and lack of coordination in policy formulation and implementation between the Departments of Justice and State.

The Commission has studied the advantages and disadvantages of the single immigration agency option, either within the Department of Justice or as an independent agency, and concludes that, at this time, the current division of responsibility between the Departments of Justice and State should be maintained. Continuing visa issuance in the Department of State and domestic operations in the Department of Justice recognizes major departmental jurisdictions and expertise in foreign and domestic policy. Further, it avoids the costs of new personnel and resource requirements, and the major personnel and operational disruptions which result from reorganization.

Several Commissioners, however, while acknowledging that the current organization may be preferable at this time, support the concept of a single agency with both foreign and domestic immigration responsibilities. They believe efficiency, effectiveness and the status of immigration policy would be significantly enhanced by such a reorganization.

Other Commissioners support transferring the immigrant--but not the nonimmigrant--visa function from the Department of State to the Immigration and Naturalization Service.* This option, they believe, would require less additional overseas personnel than would an independent agency and would not remove the more foreign policy-oriented nonimmigrant visa issuance function from the Department of State. Further, by such a reorganization, they believe interpretation of the law on immigrant admissions would be more uniform.

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*Commission vote

Vote taken on an amendment proposed by Commissioner Ochi--Transfer immigrant visa issuance from State to INS. Yes-4; No-9; Absent-2.

VII.B.1. Service and Enforcement Functions*

THE SELECT COMMISSION RECOMMENDS THAT ALL MAJOR DOMESTIC IMMIGRATION AND NATIONALITY OPERATIONS BE RETAINED WITHIN THE IMMIGRATION AND NATURALIZATION SERVICE, WITH CLEAR BUDGETARY AND ORGANIZATIONAL SEPARATION OF SERVICE AND ENFORCEMENT FUNCTIONS.

The Immigration and Naturalization Service is currently responsible for most domestic operations which concern immigration and citizenship. These operations cover a wide range of activities, from providing benefits concerning aliens to apprehending and deporting alien criminals. The Commission, during the course of its work, has heard many persons argue that one agency should not have such a broad spectrum of responsibilities because service and enforcement operations are inherently contradictory.

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*Commission vote

Yes-14; Absent-1.

The Commission has investigated the possibility of dividing present INS operations into two separate agencies, one with service-related responsibilities and the other solely concerned with law enforcement functions. It has also evaluated previous attempts to reorganize INS functions into interior and border agencies that would have consolidated INS border activities with similar border operations in other federal agencies, primarily the U.S. Customs Service's patrolling and inspections functions.

Based on its analysis of both service-enforcement and interior-border splits, the Select Commission concludes that the administration of U.S. immigration policy would not be made more efficient or effective by either type of reorganization. INS service and enforcement operations have elements of both orientations and are linked logically and physically by law and administrative support systems. Actions taken concerning an alien in one INS operation may result in eligibility for or denial of a subsequent action in another. Separating service and enforcement or interior and border functions into different agencies would be likely to increase inconsistency, duplication and delay rather than improve the administration of U.S. immigration and nationality laws.

The Commission does believe, however, that service and enforcement functions should be separated within INS to the greatest extent possible. Separate administrators already supervise service- and enforcement-related operations, and the Commission finds that separate budgets for service and enforcement-related functions would be desirable as well. This recommendation for the separation of budget items, however, refers to separate budget allocations within a single INS appropriation, not separate budget appropriations for service and enforcement functions. The common administrative support systems underlying all INS operations and the lack of management flexibility which would result from separate service and enforcement appropriations argue against this approach.

VII.B.2. Head of the INS*

THE SELECT COMMISSION RECOMMENDS THAT THE HEAD OF THE IMMIGRATION AND NATURALIZATION SERVICE BE UPGRADED TO DIRECTOR AT A LEVEL SIMILAR TO THAT OF THE OTHER MAJOR AGENCIES WITHIN THE DEPARTMENT OF JUSTICE AND REPORT DIRECTLY TO THE ATTORNEY GENERAL ON MATTERS OF POLICY.

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*Commission vote

Yes-14; Absent-1.

INTERAGENCY TASK FORCE ON IMMIGRATION POLICY

STAFF REPORT

MARCH 1979

Departments of JUSTICE, LABOR, and STATE

INTERAGENCY TASK FORCE ON IMMIGRATION POLICY

Task Force Members:

Cyrus R. Vance, Secretary of State
Griffin B. Bell, Attorney General
F. Ray Marshall, Secretary of Labor

Executive Director:

David J. Yeres

Principal Staff:

Joan V. Arrowsmith
Walter A. Fogel
Marcia A. Grant
Edward P. Hutchinson
Earl E. Huyck
Melanie Wirken McClintock
Lisa Smith Roney

Steering Committee:

Doris M. Meissner, Department of Justice
Charles B. Knapp, Department of Labor
Willard B. Devlin, Department of State
David W. Crosland, Immigration and Naturalization Service
Ellen B. Sehgal, Employment and Training Administration

* A complete listing of task force members appears as Appendix A to this report.

PREFACE

The Interagency Task Force on Immigration Policy was created in response to President Carter's August 4, 1977 policy proposal on undocumented aliens* which contained a request that the Attorney General and Secretaries of State and Labor conduct a comprehensive interagency study of existing immigration laws and policies. The Task Force, consisting of the three Cabinet members, was to make a thorough assessment of the impact of the present immigration law and develop recommendations to the President for future immigration law. Shortly after the organization and staffing of the Task Force, however, the Congress passed legislation (H.R. 12443) creating a Select Commission on Immigration and Refugee Policy, the mandate of which was similar to that of the Task Force. With the President's signing of H.R. 12443, on October 5, 1978, the mission of the Task Force was pared down to one of the providing background research for the forthcoming Commission.

The report of the Task Force staff therefore is a compendium of papers addressing many but not all of the subjects likely to be relevant to the work of the Commission. A lack of time has made it impossible to accomplish the original research and thorough assessment of immigration policy initially contemplated and, instead, with a few exceptions, this report serves to survey and analyze preexisting sources of research. We have sought to address as many of the salient aspects of immigration policy and law as time would allow. One notable omission is refugee policy, which will likely be the subject of proposals for legislative action in this session of Congress. Illegal immigration is addressed, but only as one of the many issues that make up our overall immigration policy. Some other important issues are only touched upon and will likely call for more research by the Select Commission. A bibliography is not included because a detailed volume, Immigration Literature: Abstracts of Demographic, Economic, and Policy Studies, is currently being prepared by INS and should be available by early summer.

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* The term "undocumented alien" was used by the President in his August 1977 proposal to describe those aliens who either enter this country in violation of the immigration law or who enter legally but once here overstay or violate the terms of their immigration status, thereby becoming deportable. Terms frequently used include "illegal" or "undocumented aliens," "undocumented workers," illegal immigrants," and "illegal migrants." None of these terms is wholly appropriate in every instance, and this report will use a variety of these terms, depending upon the context of the reference.

The Task Force staff has had the general guidance of a steering committee of representatives of the three concerned Cabinet officials, but has enjoyed great independence in developing its work plan and in preparing this report. This is, therefore, the report of the staff to the Task Force members and does not necessarily represent the policies or positions of any of the Task Force members themselves.

The report is the product of approximately six months' work by a small staff primarily drawn from outside the government. Experts detailed from government agencies and outside contractors contributed heavily. The independent studies made by the contractors will, it is hoped, be published shortly as a companion volume to this work. Lastly, numerous meetings with the representatives of various concerned ethnic, business, church and political groups, and lawyers who specialize in immigration law have added greatly to this report.

It is hoped that this effort will assist the Task Force members as well as the forthcoming Select Commission, and will encourage public debate on this very important and complex subject.

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Challenges to the Enforcement of Immigration Law

While it does screen out some would-be illegal immigrants, our enforcement effort at our borders and ports of entry has been largely unsuccessful in recent years. The Immigration Service has only a few hundred officers assigned to the interior United States to search out and apprehend illegal migrants in "area control operations." This small group has the overwhelming responsibility of identifying and apprehending the presumably millions of illegal migrants living and working here.

Immigration enforcement is focused primarily at or near our borders and ports of entry where over 2,000 Border Patrol officers are stationed in order to apprehend aliens before they settle down and develop ties here and to minimize the impingement on the civil liberties of our citizens and lawfully resident aliens. Almost 800,000 apprehensions were made at or near our borders in 1976.

Interior enforcement is a crucial backup deterrent against those who manage to elude border controls. Immigration Investigators in the interior are limited in much the same ways as are other law enforcement officers in the United States. In the aftermath of the "criminal law revolution of the 60's" during which the rights of those suspected of criminal activity were increased, similar safeguards were extended to suspected immigration law violators by the courts. In particular, the INS investigators' right to stop and interrogate as well as detain a suspect has been subject to close judicial scrutiny and limitation. In light of complaints of harrassment of citizens and permanent resident aliens who "look like illegal migrants," the Attorney General has directed local law enforcement officers to no longer assist INS investigators by detaining, questioning or arresting persons suspected solely of immigration offenses. Within the last year, the Immigration Service's access to search warrants for the purpose of entering premises on which it is suspected that illegal immigrants might be found has been challenged successfully in the federal courts. Although the Immigration Service has tested another form of legal process to achieve the same ends, this development may severely curtail the Service's ability to carry out its mission of apprehending illegal migrants.

Legal counsel is permitted at immigration proceedings, but is not provided at government expense, as it is to indigent defendants in the criminal courts. While no court has yet ordered that free legal counsel be granted in immigration proceedings, movement in that direction has begun. Lastly, controversy exists as to whether the "exclusionary rule" which bars the use of unconstitutionally obtained evidence should apply in deportation proceedings as it already does in criminal trials. Though one federal appellate court has taken the position that the rule does apply to deportation proceedings, Department of Justice policy remains contrary.

CHAPTER XIII
CHALLENGES TO ENFORCEMENT OF THE IMMIGRATION LAW

Last year (FY 1978) over 1 million apprehensions of deportable aliens were made by INS. Most of these apprehensions involved Mexican nationals stopped at or near the Southern border who may already have been apprehended one or more times. The fact that our 1 million plus apprehensions per year may be inflated by multiple apprehensions of the same aliens is not a happy one. While it indicates that fewer than 1 million different persons may have been caught, it provides little guidance as to how many were not and moreover strikingly reveals the "revolving door" quality of our immigration law enforcement. Persons who don't succeed at first may try, try again with virtual impunity.

The vast majority of deportable aliens apprehended by INS (95% in FY 1978) waive their right to a deportation hearing and are granted "voluntary departure" by which they are merely transported out of the United States. Voluntary departure is as much for the benefit of the INS as for the alien. While the alien is not burdened with a record of deportation or a possible detention while awaiting a hearing, the INS benefits by not having to provide a million deportation hearings each year. It is clear that the INS, the resources of which were stretched to provide fifty thousand such hearings in FY 1978, would be crippled if required to do twenty times that number. Hence, the magnitude of the illegal flow has been influential in shaping INS enforcement, yet there have been at least two other, often competing, themes which play an important part in the development of INS enforcement policy.

On one hand, heightened public awareness of illegal immigration, combined with a generally negative perception of the impacts of such migrants, is placing increased pressure on the INS to pursue its enforcement responsibilities vigorously. This is often reflected in printed and electronic media as well as the public positions of various elected officials. On the other hand, the impact on immigration law of the "criminal law revolution of the 60's" as well as public and judicial concern for the civil liberties of citizens and aliens, legal and illegal, put greater restrictions on immigration enforcement activities. The confluence of these oftentimes conflicting themes has placed the INS enforcement effort under close scrutiny by the public, the press and the courts.

Improvement of enforcement efforts alone will not solve the problem of illegal immigration. However, this chapter will limit itself to a review and assessment of the status of that effort, particularly the procedures followed by the INS to apprehend and establish deportability of illegal aliens who have passed through the border area into our interior, and some of the legal challenges raised to these INS enforcement efforts.

Enforcement Procedures

As discussed previously, there are several million illegal aliens in this country and hundreds of thousands more enter each year. While most enforcement efforts are focused at or near our borders and ports of entry where they are most effective, an effort is also underway to apprehend the millions of illegal aliens presumed to reside in the interior.

At or Near the Border

Border enforcement is directed at aliens who are in the process of crossing illegally into U.S. Territory. The advantages of immediate apprehension are that (1) the aliens are caught before they settle down and develop ties and (2) the impingement on the civil liberties of our citizens and lawfully resident aliens is minimal. The Service enforcement activity near the border is aided by broader statutory authority[1] and by the fact that equipment such as planes, helicopters, mobile roving patrols, sensors embedded in the ground, and infrared and night vision devices are effective tools for detecting persons surreptitiously crossing our borders.

---

[1] Within a reasonable distance from the boundary (defined as 100 miles, by regulations, 8 C.F.R. 287.1[a] and [b]), the Act confers authority on Service officers, without a warrant, to board and search vehicles for aliens. This authority has been restricted by judical decision to situations in which officers have probable cause to suspect that aliens (or illegal aliens) are in the vehicle. United States v. Ortiz, 422 U.S. 891 (1975). The Act also allows access without warrant to private lands but not dwellings which are within 25 miles from the boundary.

Technically, the Border Patrol is responsible for all boundaries of the United States. The majority of the Patrol force (91%), however, is stationed in the vicinity of our land border, with 1,968 agents on the Southern border and 304 on the Northern border. The apprehensions by the Border Patrol, not surprisingly, consist largely of Mexicans and Canadians (781,474 and 7,665 respectively during FY 1976).

The other aspect of border enforcement consists of immigration inspections, conducted at "ports of entry" (inspection stations), of all persons seeking to come into the United States. These inspections are designed to weed out persons who are inadmissible including potential visa abusers. Given the high volume of traffic (there are currently about 270 million inspections per year) significant numbers are bound to pass undetected. Furthermore, some visa abusers are bona fide nonimmigrants at the time of entry but change their purpose or overstay their visa limits.

Interior Enforcement

Interior enforcement is crucial as a back-up deterrent for the many who manage to elude the border controls. To provide this support, the Service currently employs 1,167 investigators. Of this figure, fewer than 300 are presently assigned to "area control operations," a procedure which focuses on the location of undocumented aliens in specific urban areas or commerical establishments. The remaining 800 investigators are assigned to

U.S. Department of Justice

Attorney General's Task Force on Violent Crime

Final Report

Task Force Members:
Griffin B. Bell, *Co-Chairman*
James R. Thompson, *Co-Chairman*
David L. Armstrong
Frank G. Carrington
Robert L. Edwards
William L. Hart
Wilbur F. Littlefield
James Q. Wilson

Jeffrey Harris, *Executive Director*

For sale by the Superintendent of Documents, U.S. Government Printing Office Washington, D.C. 20402

1981

U.S. Department of Justice

Attorney General's Task Force on Violent Crime

Washington, D.C. 20530

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Jeffrey Harris
Executive Director

August 17, 1981

The Honorable William French Smith
Attorney General
United States Department of Justice
Washington, D.C. 20530

Dear Mr. Attorney General:

Pursuant to our charter and your mandate we have completed our work within the specified 120 days. The Task Force on Violent Crime herein presents its final recommendations on ways in which the federal government can improve its efforts to combat violent crime without limiting its efforts against organized and white collar crime.

At your direction, we have divided our work into two phases. Our Phase I recommendations, which were presented to you on June 17, 1981, addressed measures the Department of Justice could undertake within the existing statutory framework and existing resources. Those recommendations, as they were originally presented to you, are included in the first section of this final report.

Our Phase II recommendations are contained in the second section of this report. They focus on changes in federal statutes, funding levels, and allocation of resources which we believe would increase the federal government's impact on violent and serious crime consistent with appropriate federal-state relations and the competing needs for federal resources.

The recommendations which follow are offered with due respect to the traditional separation of responsibilities between the federal government and the states. We reaffirm the wisdom of this separation, although we did identify a few areas where the federal government is in a unique position to assist state and local governments in fulfilling their criminal justice responsibilities.

We wish to emphasize that the federal government's first priority should be to provide adequate resources to its own offices which are involved in fighting violent crime and to assure that its policies are clear and sound in all matters which impact on state and local law enforcement. In this way the states and local governments can better deploy their resources to carry out their responsibilities. We do not believe that the federal government should subsidize the ongoing operations of state and local criminal justice systems. But we do believe that, within the context of each level of government exercising its own authority and bearing its unique responsibilities, much can be done to improve the coordinated federal-state-local fight against violent serious crime.

As a final note, we wish to express our deep appreciation to the fine staff that worked long and hard under very short deadlines and that prepared our materials in a highly professional manner. We are also appreciative of the many officials and private citizens who testified at our hearings or who sent us their views in writing. The combined effect of these communications had an important affect on our deliberations.

It was indeed a distinct pleasure for us to have had the opportunity to assist you in this most important work. We wish you all continued success in seeing it to fruition.

Respectively submitted,

Griffin B. Bell
Griffin B. Bell
Co-Chairman

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Executive Director

Chapter 1

Federal Law and Its Enforcement

Serious crime is a national problem which should be attacked forcefully by all levels of government. While ordinary street crime falls within the province of state and local governments, certain interstate crimes and criminal activity with national implications are the responsibility of the federal government. This simple statement reflects one of the basic principles on which our system of government was founded.

In this chapter, we discuss ways in which the federal government could do more to combat serious crime that falls or should fall within its jurisdiction. We have examined existing federal criminal laws to see if they need to be changed to render their enforcement more effective. We have looked at certain administrative laws which impact on federal law enforcement, namely the Freedom of Information Act and the Tax Reform Act of 1976, and have examined the balance between the purposes of these Acts and their effects on criminal law enforcement. We have studied areas in which federal jurisdiction over serious crime might be expanded without overstepping traditional federal-state boundaries.

We have also looked at federal law enforcement policies to see if changes need to be made to improve federal effectiveness. We have given attention to the present division of law enforcement responsibilities among several agencies and have developed a proposal for a more logical grouping of law enforcement functions. Finally, we have identified areas in which additional resources are needed in order to effectively carry out federal responsibilities.

The following recommendations involve ways in which the federal government can take direct action to bear its share of the burden of the combined federal-state-local responsibility to combat serious crime.

Narcotics

Recommendation 16

The Attorney General should support the implementation of a clear, coherent, and consistent enforcement policy with regard to narcotics and dangerous drugs, reflecting an unequivocal commitment to combatting international and domestic drug traffic and including—

a. A foreign policy to accomplish the interdiction and eradication of illicit drugs wherever cultivated, processed, or transported; including the responsible use of herbicides domestically and internationally.

b. A border policy designed to effectively detect and intercept the illegal importation of narcotics, including the use of military assistance.

c. A legislative program, consistent with recommendations set forth elsewhere in this report, to reform the criminal justice process to enhance the ability to prosecute drug-related cases.[1]

Commentary

Throughout the course of our hearings, a recurrent theme has been the importance of more effectively combatting narcotics traffic. From Washington to Los Angeles, from Detroit to Miami, we have heard officials and scholars stress the connection between drugs and violent crime. Certain drugs directly cause physical harm and irrational and violent behavior. Other drugs cause addiction which, according to evidence presented to us, is directly related to a staggering amount of crime, much of it violent. Finally, drug trafficking itself, as demonstrated by so-called "cocaine cowboys," is often an extremely violent criminal activity.

We recommend a clear and coherent national enforcement policy with regard to narcotics and dangerous drugs. This policy must be characterized by a commitment to reducing the supply of—and demand for—illegal drugs, and it must be executed consistently.

The seriousness of the drug problem and of the national policy required to combat it must be reflected in the criminal justice system. Many general problems, such as insufficient bail, the suppression of truthful evidence, and the imposition of inconsistent and inadequate sentences, are particularly pronounced in drug cases. Accordingly, the recommendations set forth in Chapter 2 of this report are especially applicable to narcotics cases so that society will be better able to detect, apprehend, detain for trial, convict, and meaningfully sentence drug traffickers.

But the narcotics problem is broader than the criminal justice system. Fully 90 percent of the illegal drugs consumed in the United States come from abroad. Of all the aspects of this nation's violent crime problem, the international nature of drug trafficking most uniquely requires the powers and resources of the federal government. Plainly, state and local authorities are neither equipped nor empowered to conduct foreign relations or control access to this country by land, sea, and air.

So the national drug enforcement strategy must also be reflected in our foreign policy. The Administration must assure that United States diplomatic and economic assistance initiatives overseas are geared, whenever possible, toward the detection, interdiction, and eradication of illicit drugs before they complete (or even commence) their course to this country. Authorities agree that crop destruction is the most (and perhaps only) effective way to significantly disrupt drug traffic. This effort must not be crippled by unnecessary regulations. To this end, we recommend that the Administration assure that restrictions such as the present ban on the use of paraquat be removed unless based on an established and not speculative health risk. In this regard, we note that the Attorney General of Florida testified that 61,000 pounds of paraquat were used last year on his state's agricultural crops.

Nor can the national enforcement policy ignore the significant domestic marijuana crop. Failure to treat this phenomenon with the same seriousness (and the same methods) as we do foreign crops would betray an ambivalence about fighting drugs and would seriously weaken our efforts to persuade foreign governments to suppress drug cultivation.

The national enforcement policy must also find consistent application at our borders. The use of otherwise available military resources to detect and, if necessary, interdict drug smugglers must be authorized. To the extent that the Posse Comitatus Act prevents the military from providing such assistance, the Act should be amended. Inspection programs must be thorough, even if they require that citizens returning to this country be slightly inconvenienced by delays.

The application of scarce federal resources must be selective. The federal effort must be directed at those parts of the drug problem that state and local authorities cannot address. That is why we focus so strongly on international and border control efforts.

A final point is one often made during our hearings—the need for effective coordination. This need is recognized in all areas of law enforcement but is paramount in drug enforcement. Given the magnitude and worldwide scope of drug traffic and the multitude of federal, state, and local agencies with concurrent or overlapping jurisdiction, we recommend that the Attorney General and the Administration assure that the implementation of a national drug enforcement strategy be effectively coordinated at all levels of government. It is particularly important that the federal authorities closely coordinate with state and local law enforcement agencies that have the primary responsibility to investigate drug-related violent crime.

Note

1. We also address narcotics in Phase I Recommendation 2.

Guns

Recommendation 17

The Attorney General should support or propose legislation to require a mandatory sentence for the use of a firearm in the commission of a federal felony.[1]

Recommendation 18

The Attorney General should support or propose legislation to amend the Gun Control Act of 1968 to strengthen its ability to meet two of its major purposes: allowing the trace of firearms used during the commission of an offense and prohibiting dangerous individuals from acquiring firearms. Specifically, the Act should be amended to provide the following:

a. That, on a prospective basis, individuals be required to report the theft or loss of a handgun to their local law enforcement agency.

b. That a waiting period be required for the purchase of a handgun to allow for a mandatory records check to ensure that the purchaser is not in one of the categories of persons who are proscribed by existing federal law from possessing a handgun.[1]

Recommendation 19

Title I of the Gun Control Act of 1968 prohibits the importation of certain categories of handguns. However, the Act does not prohibit the importation of unassembled parts of these guns, thereby permitting the circumvention of the intended purpose of this title of the Act. It is therefore recommended that the Act be amended to prohibit the importation of unassembeld parts of handguns which would be prohibited if assembled.[1]

Recommendation 20

The Attorney General should support or propose legislation to authorize the Bureau of Alcohol, Tobacco and Firearms to classify semi-automatic weapons that are easily converted into fully automatic weapons as Title II weapons under the Gun Control Act of 1968.[1]

Notes

1. Statement of Jonathan C. Rose, Assistant Attorney General, Office of Legal Policy, U.S. Department of Justice, before the House Subcommittee on Information and Individual Rights of the House Government Operations Committee, July 15, 1981.

2. United States Senate Subcommittee on Criminal Laws and Procedures of the Senate Judiciary Committee, *The erosion of law enforcement intelligence and its impact on the public security*, (Washington: U.S. Government Printing Office, 1978).

3. Such reservations were expressed by the following persons testifying before the Government Information and Individual Rights Subcommittee of the House Government Operations Committee in mid-July 1981: William Cox, representing the American Newspaper Publishers Association and the National Newspaper Association; Edward Cony, representing the American Society of Newspaper Editors; Jack C. Landau, of the Reporters Committee for Freedom of the Press; Tonda Rush, representing the Freedom of Information Service Center; Joseph L. Rauh, Jr., of Americans for Democratic Action; and Paul Hoffman, of the National Committee Against Repressive Legislation. Similar reservations were expressed by Steven R. Dornfeld, representing the Society of Professional Journalists, Sigma Delta Chi, before the Senate Judiciary Subcommittee on the Constitution on July 15, 1981.

Centralizing federal law enforcement functions

Recommendation 33

The Attorney General should study whether to transfer the firearms, alcohol, and arson law enforcement functions of the Bureau of Alcohol, Tobacco and Firearms to the Department of Justice; to transfer the Border Patrol functions of the Department of Justice to the Department of the Treasury; and to transfer the licensing and compliance functions of the Drug Enforcement Administration to the Food and Drug Administration of the Department of Health and Human Services.[1]

Commentary

Strengthening enforcement of federal laws, particularly those related to firearms, narcotics, and arson, is one of the most significant ways in which the federal government could do more to assist in combatting the problem of violent crime. The enforcement of firearms and arson laws, currently lodged in the Department of the Treasury, relates closely to the enforcement of other criminal laws for which the Department of Justice is responsible. While much could be done to improve the coordination of efforts between these departments, we do not believe that attempts of federal law enforcement agencies, working on related problems, to coordinate their activities and share their resources and facilities can be as effective as placing them under a central authority. Having related law enforcement responsibilities in separate agencies can result too often in inefficient operations, duplication of effort, inadequate use of scarce resources, and conflicts over responsibilities, authority, and jurisdiction. Furthermore, the division of responsibilities between the Departments of Justice and Treasury makes it more difficult for state and local law enforcement agencies to work with the federal government in attacking common problems such as firearms trafficking. As Admiral Mahan, the master naval strategist, reasoned, "Granting the same aggregate of force, it is never as great in two hands as in one, because it is not perfectly concentrated."

We believe that reorganization of federal law enforcement functions would improve the efficiency of the federal law enforcement machinery and should receive the serious consideration of the Attorney General. One move that should be considered is a transfer of the firearms, alcohol, and arson law enforcement functions of the ATF to the Department of Justice. This would place the responsibility for fighting one of this country's most pressing and demanding crime problems—trafficking in illegal weapons—in our foremost law enforcement department. Such a transfer would permit more vigorous enforcement of laws governing the import and export of firearms and munitions at ports of entry. In addition, through Department of Justice central management, a larger pool of law enforcement resources could be allocated more effectively to meet law enforcement requirements.

Another area for reorganization consideration is the transfer of the Border Patrol of the Department of Justice to the U.S. Customs Service of the Department of Treasury. This would permit more effective coordination in the effort to reduce the flow of narcotics into this country.

A final organizational issue that should be considered is whether the DEA licensing and compliance function should be transferred to the FDA of the Department of Health and Human Services. We are concerned that including such responsibilities in an agency whose primary mission is the enforcement of narcotics laws may interfere with the effective performance of its major duties.

We regret that our short life span precluded a more detailed study of how these organizational considerations affect the law enforcement function of the federal government. It seems clear to us that the current fragmentation of responsibilities and overlapping jurisdictions create great potential for less than optimal performance by federal law enforcement agencies and that the transfers we propose for study would eliminate substantial jurisdictional overlaps, improve interdepartmental coordination, and eliminate duplication in combatting violent crime. We recommend that the Attorney General study the organizational issues we have raised and determine if centralization will indeed strengthen the law enforcement operations of the federal government.

Note

1. We also address the organization of federal law enforcement functions in Phase I Recommendation 1 and arson in Phase II Recommendations 25 through 27.

Congressional Briefing on Border Inspection Consolidation

November 16, 1983

1:30 PM -- Room H164, The Capitol

(President's Cabinet Council on Management and Administration Outline and Supporting Materials)

ATTENDEES

Departments/Agencies

Joseph R. Wright, Jr.
Deputy Director, OMB

John M. Walker
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Enforcement and Operations
Department of Treasury

Gerald R. Riso
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Richard Backus
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Al Chipego
Executive Assistant to the
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Justice, Treasury and Personnel, OMB

Gordon Wheeler
Legislative Affairs, OMB

NOTES

November 16, 1983

- This Congressional briefing on streamlining the border inspection activities is the first among several meetings to ensure all concerns are considered in developing the final proposal.

- Pressure to make more effective our border inspection and control activities stems from three sources.

Congressional Reports and Resolutions:	- 1984 Treasury, Postal Service and General Government Appropriation Bill.
	- Senate Resolution 167
	- Department of Commerce, Justice, and State, the Judiciary and related Agencies Appropriations Bill--Fiscal Year 1984.
	- Other Congressional correspondence
Business Community:	- Industry groups representing airport operations, tourism, trade, etc., have consistently called for more efficient and effective inspection activities.
Executive Branch:	- This Administration is committed to better management and more effective use of resources.

- The proposal by the Cabinet Council on Management and Administration (CCMA) is based on the experiences and findings of previous studies and reports relating to the Federal inspection process.

° The proposal is a compromise and has the support of both INS and Customs. The intent is to use resources more effectively to protect our borders. It is not the intent of the proposal to reduce resources where they are needed.

° There is no time frame set for implementation; although, it is hoped that this be accomplished during this fiscal year prior to the Olympics.

° The broad guidelines of the CCMA proposal are as follows:

- Primary inspection on land ports will be the responsibility of INS.
- Primary inspection at air and sea ports will be the responsibility of Customs.
- Some portions of the border patrol activity will be transferred from Customs to INS.
- Secondary inspection activities will remain essentially in tact.
- Inspection activities of other authorities will not be effected (i.e., Coast Guard, DEA, etc.).

° A Working Group comprised of USDA, Justice, Treasury, and OMB has been formed to analyze further the details and recommend a course of action.

98TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
No. 98-232

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION BILL, FISCAL YEAR 1984

JUNE 3, 1983.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SMITH of Iowa, from the Committee on Appropriations, submitted the following

REPORT

[To accompany 3222]

The Committee on Appropriations submits the following report in explanation of the accompanying bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year 1984.

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trants to remain available until expended, and $10,090,000 to establish a national records center and $11,134,000 to implement a long-range automated data processing plan, each of these amounts to remain available until September 30, 1985. The committee has not approved the requested language change which would increase the amount paid to aliens for work performed while in INS detention facilities to $4.00 per day.

Within the committee recommendation there is $5,000,000 to fund 100 additional permanent positions for inspection activities at ports of entry along the Southwest Border in Texas. The committee intends that these positions be accommodated from funds in the base that are no longer needed due to the closure of the Fort Allen, Puerto Rico service processing center. The committee has been concerned about the manpower shortage at Del Rio, Texas and other INS stations along the Mexican border and has redirected these funds to establish the necessary inspector and supervisor positions to help alleviate this situation.

The committee wishes to express its concern over the continuing problem of delays of travellers and cargo at airports and other ports of entry into the United States. The possibility of consolidating the primary inspection functions of the Immigration Service, the Customs Service and other inspection agencies has been discussed and reviewed for a number of years, and recommendations have been made to implement a consolidated Federal inspection program. Therefore, the committee urges that the Immigration and Naturalization Service cooperate with the Office of Management and Budget and the Administration to develop and submit a proposal to the Congress for a primary inspection consolidation plan.

FEDERAL PRISON SYSTEM

The bill contains a total of $490,177,000 in new budget authority for the Federal Prison System. This amount is an increase of $9,107,000 above the budget request and is an increase of $25,411,000 above appropriations enacted to date for the current fiscal year. The details of the several appropriations under this heading are discussed in the following paragraphs.

SALARIES AND EXPENSES

The amount recommended for administration, operation, and maintenance of Federal penal and correctional institutions for fiscal year 1984 is $425,370,000. This amount is $893,000 below the budget request, but is $38,321,000 more than the appropriation enacted to date for fiscal year 1983.

The reduction from the budget request is due solely to the disallowance of the budgeted increase for payments to GSA for space and services in excess of seven percent. The committee recommendation will provide for all of the other nondiscretionary cost increases as well as all of the program increases requested for fiscal year 1984. These program increases include $704,000 to fund food costs associated with the projected growth in inmate population; $2,471,000 and 106 positions for expanded medical services at selected institutions, including activation of the chronic care unit at the Springfield, Missouri, Medical Center and additional medical

Calendar No. 306

98TH CONGRESS } SENATE { REPORT
1st Session } { No. 98–186

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATION BILL, 1984

JULY 20 (legislative day, JULY 18), 1983.—Ordered to be printed

Mr. ABDNOR, from the Committee on Appropriations,
submitted the following

REPORT

[To accompany S. 1646]

The Committee on Appropriations reports the following bill (S. 1646) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1984, and for other purposes, and presents herewith information relative to the bill.

Amount of bill as reported by House	$11,987,584,000
Amount of decrease by Senate	−123,334,000
Amount of bill as reported to the Senate	11,864,250,000
Amount of estimate	11,576,298,000
The bill as reported to the Senate:	
Over the appropriations provided in 1983	+780,088,000
Over the estimates for 1984	+287,952,000
Under the House bill	−123,334,000

tral role in formulation of domestic policy and is responsible for coordinating and supporting the Cabinet Councils and for supporting the President's Economic Policy Advisory Board. The Office also provides support for several other functions within the Executive Office of the President, including planning and evaluation, Cabinet affairs, and drug abuse policy.

NATIONAL SECURITY COUNCIL

1983 appropriation to date	$4,265,000
1984 budget estimate	4,497,000
House allowance	4,497,000
Committee recommendation	4,497,000

The Committee recommends an appropriation of $4,497,000 for the salaries and expenses of the National Security Council.

The primary purpose of the Council is to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security. Subject to direction by the President, it is the responsibility of the Council to assess and appraise the objectives, commitments, and risks of the United States in relation to actual and potential military power, to consider policies on matters of common interest to the departments and agencies of the Government, and to make recommendations and other reports to the President.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

1983 appropriation to date	$33,000,000
1984 budget estimate	34,246,000
House allowance	38,643,000
Committee recommendation	[1] 31,603,000

[1] $5,397,000 has been transferred to establish a separate Office of Information and Regulatory Affairs (OIRA) account.

The Committee recommends an appropriation of $31,603,000, a reduction of $8,040,000 below the fisical year 1984 budget request. Of that total, $2,166,000 can be attributed to SLUC. The Committee feels other economies will result in the remainder of the savings.

This Office of Management and Budget assists the President in the discharge of his budgetary, management, and other executive responsibilities. The Office performs the function of assisting the President in the preparation and execution of the Federal budget. The Office also provides the President with an institutional staff capability in executive management—particularly in program evaluation and coordination, Government organization, and information and management systems.

FEDERAL INSPECTION

The Committee reaffirms its concern over persistent delays in primary inspection (Customs, Immigration Service, etc.) functions involving the efficient movement of people and cargo at airports and border inspection points. The feasibility of consolidating these primary inspection functions has been discussed and studied on many occasions over the years, and recommendations have been made repeatedly that consolidation be implemented, and overall primary inspection responsibility be placed with the service now carrying the greatest inspection workload.

Therefore, the Committee urges the Office of Management and Budget, in its role as a management expert, to take the steps necessary to initiate a primary inspection consolidation plan.

COMMITTEE DIRECTIVE: THE FEDERAL DRUG INTERDICTION BUDGET

In March of this year, the President announced the creation of a national narcotics border interdiction system (NNBIS), a program designed to bolster civilian drug interdiction efforts around the borders of the United States. In the same month, this Committee recommended and the Congress approved a supplemental appropriation of $3,750,000 to initiate the first part of a major Customs air interdiction program featuring the use of military assets to improve our war on drug smugglers.

As the Congress joins forces with the administration to wage war on drug smuggling operations that threaten our borders, it is imperative that this Committee, other appropriate legislative committees, and the public be able to know what level of resources are being expended and requested for Federal drug interdiction activities. Without adequate information on total interdiction resources, both agency management and congressional oversight of drug interdiction resources are difficult. Specifically, the Committee believes that the budget for all drug interdiction activities among the various Federal agencies with interdiction responsibilities should be broken out in the President's annual budget submission to the Congress.

Therefore, the Committee directs the Office of Management and Budget to prepare for inclusion in the fiscal year 1985 budget of the United States and the accompanying special analysis, a separate section which outlines in detail the total resources expended in fiscal year 1983, estimated for fiscal year 1984, and requested for fiscal year 1985 for Federal drug interdiction activities, including an agency-by-agency breakdown of their respective drug interdiction budgets for the three fiscal years mentioned above.

The Committee fully expects OMB to comply with this important directive and stands prepared to work closely with OMB in developing an appropriate format for reporting the drug interdiction budget in the official budget of the United States for fiscal year 1985.

CONSULTANT FEES

The Committee is most concerned about the costs incurred by the Federal Government for consultant fees. The Committee recognizes there is a legitimate need for consultants in certain instances; however, not to the degree which they have been utilized in past years. Continued efforts to bring this type of expenditure under control have been less than successful. The Committee is exasperated that its efforts to gain control of the situation have been thwarted in almost every instance.

98TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
No. 98–417

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATION BILL, 1984

OCTOBER 18, 1983.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

Mr. ROYBAL, from the Committee on Appropriations, submitted the following

REPORT

together with

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 4139]

The Committee on Appropriations submits the following report in explanation of the accompanying bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1984, and for other purposes.

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23-269 O

Supplies	13,000
Equipment	400,000
1984 Budget request	39,643,000

Of the $4,656,000 increase, $2,913,000 is for uncontrollable items such as: the GSA-mandated increase for office space rental charges; annualization of the 1983 executive pay increase, the 1.3 percent Medicare Tax; and normal within grade increases that are mandated by law. The remaining portion of the increase is requested to:

—fill 10 positions that have remained vacant for the past year;
—provide additional funds for staff travel, training, printing, computer services, and equipment;
—offset inflationary increases in current operational expenses.

The Committee has not allowed the ten additional positions requested and has also made a general reduction in the other requested increases.

COMMITTEE CONCERN OVER FEDERAL INSPECTION

The Committee reaffirms its concern over persistent delays in primary inspection (Customs, Immigration Service, etc.) functions involving the efficient movement of people and cargo at airports and border inspection points. The feasibility of consolidating these primary inspection functions has been discussed and studied on many occasions over the years, and recommendations have been made repeatedly that consolidation be implemented, and overall primary inspection responsibility be placed with the service now carrying the greatest inspection workload.

Accordingly, the Committee again urges the Office of Management and Budget to take the lead on this matter as the President's management arm, and move forward with a primary inspection consolidation plan.

REPRESENTATION FUNDS

For a number of years, the Budget has requested funds for representation purposes which are not authorized by law. The inclusion of funds in appropriation bills for activities not authorized by law is in violation of the rules of the House and, therefore, subject to a point of order against which there is no defense.

The Committee understands that under certain circumstances some government officials may have a legitimate need for funds for representation purposes. To deny funds for those purposes would mean that the officials would be required to use personal funds for legitimate government purposes. The Committee strongly urges the Administation to seek legislation authorizating these funds where needed. The Committee points out, however, it intends to deny all funding for representation expenses next year unless action is taken to obtain appropriate authorization.

The Committee allows 594 positions for 1984, a reduction of ten below the 604 requested and the same number as authorized for 1983.

BOB PACKWOOD, OREG., CHAIRMAN
BARRY GOLDWATER, ARIZ.
JOHN C. DANFORTH, MO.
NANCY LANDON KASSEBAUM, KANS.
LARRY PRESSLER, S. DAK.
SLADE GORTON, WASH.
TED STEVENS, ALASKA
BOB KASTEN, WIS.
PAUL S. TRIBLE, JR., VA.
ERNEST F. HOLLINGS, S.C.
RUSSELL B. LONG, LA.
DANIEL K. INOUYE, HAWAII
WENDELL H. FORD, KY.
DONALD W. RIEGLE, JR., MICH.
J. JAMES EXON, NEBR.
HOWELL HEFLIN, ALA.
FRANK R. LAUTENBERG, N.J.
GERALD J. KOVACH, CHIEF COUNSEL
RALPH B. EVERETT, MINORITY CHIEF COUNSEL

United States Senate
COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION
WASHINGTON, D.C. 20510

October 3, 1983

The Honorable Malcolm Baldrige
Secretary of Commerce
Washington, D.C. 20230

Dear Mr. Secretary:

As you know, the Senate recently passed S. Res. 167, expressing the sense of the Senate that the Secretary of Commerce should, in conjunction with the Secretary of Transportation and the Attorney General, develop and implement a national plan to consolidate the inspection functions pertaining to international travelers and cargo. I understand this issue will be considered by the Cabinet Council very soon. I urge you to do everything possible to encourage the swift development and implementation of such a plan.

As you well know, travel and tourism is an extremely important segment of our economy. In light of the current congestion problems we are experiencing at our international gateways, and the upcoming major international events considered in S. Res. 167, it is especially important to act on this matter in a timely fashion.

If I can be of assistance in any way, please do not hesitate to contact me. As always, your leadership on this is greatly appreciated. I would appreciate it if you could keep me informed as to the progress of this proposal. Thank you very much for your consideration in this matter.

Sincerely,

Larry Pressler
United States Senator

LP/ksk

Without then hearing any other objections, I propose that we vote on the amendment.

Mr. PELL. Mr. President, I think this amendment as modified by the Senator from Arizona is a good amendment. While restricting an ambassador's political activity in non-Presidential campaigns, it recognizes the fact that an ambassador is the representative of the chief of state and if that ambassador wishes to campaign for or against the Presidential candidate in a Presidential election he should have the complete freedom to do it. He should not be subject to the restrictions of a civil servant.

I think that this gives an ambassador that political freedom which he should have.

I speak personally in this regard because I have in my possession a letter from President Franklin Roosevelt requesting my father who was then a chief of mission abroad to come over and campaign for him. This amendment would not prohibit an ambassador from assisting in such a campaign and I think this exception is very reasonable.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment of the Senator from Arizona.

The amendment (No. 2203) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Now, Mr. President, may I ask the distinguished managers of this measure to let me put a unanimous-consent request that will create a brief period of the transaction of routine morning business so that calendar items and certain other things can be taken care of before we resume the consideration of those matters on the State authorization bill which will not require a rollcall vote tonight.

Mr. PERCY. I have no objection whatsoever. I would like to inquire of the majority leader about how long he feels that will take.

Mr. BAKER. I feel it will take 5 minutes.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business to extend not past 8:40 p.m. in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, first let me say that there will be no more record votes tonight. When we come back tomorrow, it is the intention of the leadership to ask the Senate to turn first to the consideration of the Export-Import Bank Act of 1945 rather than resume consideration of the State authorization bill.

The reason for it, frankly, is because both the chairman and ranking minority member of the Foreign Relations Committee will be occupied in an executive session of the Foreign Relations Committee in the morning and not available on the floor.

After the Export-Import Bank matter is disposed of, we will go back to the State authorization bill.

ORDERS FOR FRIDAY

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that on tomorrow, after the recognition of the two leaders under the standing order, there be a period for the transaction of routine morning business to extend from that moment until 10 a.m. in which Senators may speak for not more than 1 minute each.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORT OF SENATE DELEGATION

Mr. BAKER. Mr. President, in late May of this year, at my request, Senator RICHARD LUGAR headed a bipartisan delegation of U.S. Senators to the United Kingdom, The Netherlands, Belgium, and the Federal Republic of Germany to discuss items of mutual concern and interest with our NATO allies.

I ask unanimous consent that the report of the delegation be printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF REPORTING DEADLINE

Mr. BAKER. Mr. President, it is clear I think that we are not going to be able to comply with the provisions of House Concurrent Resolution 91 on the date specified. I believe this request has been cleared on both sides.

I ask unanimous consent that Senate committees instructed pursuant to that resolution, that is to say, House Concurrent Resolution 91, be given until October 17, 1983, to report their recommendations to the Senate Committee on the Budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. BAKER. Mr. President, I have three calendar items that appear to be cleared on this, I would say to the minority leader. First is Calendar Order No. 382, then 393, and last 395.

May I inquire of the minority leader if he is prepared to consider all or any part of those items at this time?

Mr. BYRD. Mr. President, those matters have been cleared on this side of the aisle.

Mr. BAKER. I thank the minority leader.

PROMOTING TRAVEL TO THE UNITED STATES DURING THE 1984 OLYMPIC GAMES

Mr. BAKER. Mr. President, first, then, I ask that the Chair lay before the Senate, Senate Resolution 167, Calendar Order No. 382.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 167) expressing the sense of the Senate that the Federal Government take all necessary steps to promote travel to the United States by foreign visitors during the 1984 summer Olympics and the 1984 Louisiana World Exposition, to inform such visitors of recreational and commercial opportunities throughout the United States, and to facilitate their entry into and travel within this country.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. PRESSLER. Mr. President, I am glad the full Senate is considering this important resolution. The United States will have an opportunity in 1984 to make great strides in improving its image and marketability as an international travel destination. The 1984 summer Olympics, which will be in Los Angeles, and the Louisiana World Exposition in New Orleans are two events which will undoubtedly attract thousands of foreign visitors. The benefits to the United States from this increase in foreign visitorship are numerous. The financial gains are staggering by themselves, but they are not the only positive result. The benefits in terms of international understanding and goodwill will be huge. The people who return home across the globe will pass along stories of their adventures and their impressions of the United States. Obviously, it is to our benefit to make sure that all these foreign visitors are accommodated and made to feel welcome.

Unfortunately, it is all too likely that many of these travelers will begin their visits with an unpleasant encounter at one of our international airports. I am referring to the fact that the Customs Service and the Immigration and Naturalization Service are not prepared to handle the large increase in foreign arrivals which will be experienced next year. If only certain ports were affected the problem would not be so severe. However, foreign visitors will be arriving at various spots all over the country, and we simply do not have adequate Customs and INS personnel at all locations to deal with this influx.

The problem this creates goes beyond simple delays at the passenger's point of arrival. Flight connections and other plans could be disrupted as well. And, perhaps most significantly, these visitors are sure to take back home with them horror stories about the long delays and possibly rude treatment by tired, overworked inspection personnel. This could obviously have a major negative impact on our image as an attractive international destination and could cost us future tourism business. And we know very well that every lost visitor reduces our tourism trade income and costs the American economy thousands of dollars.

Someone may well ask why a Senator from South Dakota cares about international tourism business which is going to primarily benefit the west coast and the gulf coast. I am concerned because of two reasons. First, tourism is my State's second largest industry, and while the international share of the total is relatively small, the fact remains that foreign visitors spend more than domestic tourists, and it is also true that they generate future business through word of mouth advertising. Anything which is good for travel and tourism in general is good for my State.

It is also true that many of the visitors to Los Angeles and New Orleans will visit other areas of the country. I am certain that some will come to South Dakota to hunt, fish or tour the Black Hills and Mount Rushmore. In simple terms, I want to increase the number of foreign visitors to the United States because it is bound to help both the economy of South Dakota and the national economy; and that will create new jobs.

In any event, we cannot maximize these benefits unless we develop a system for processing arriving visitors which will assure them of prompt, friendly service. If we treat them as potential lawbreakers instead of guests we are doing ourselves a disservice by discouraging future travel.

As a way of dealing with this situation I introduced Senate Resolution 167. It encourages the Secretary of Commerce to do all he can to promote and expedite the entry of foreign visitors and goods and to promote a full range of commercial opportunities as well.

In addition, it requests the Secretary to work with the Attorney General and the Secretary of the Treasury to develop a plan for the consolidation of the inspection services under their jurisdiction. Studies have shown that a consolidation of the functions of Customs and INS would result in an agency which could handle a larger workload in less time, and probably with fewer people than are currently employed by the two agencies separately.

As a supporter of the travel and tourism industry and as one who is anxious to see its job creation potential be maximized, I ask that my colleagues join me in supporting Senate Resolution 167.

The **PRESIDING OFFICER.** The question is on agreeing to the resolution.

The resolution (S. Res. 167) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 157

Whereas in 1982 some twenty-two million foreign tourists visited the United States;

Whereas, in addition to promoting international trade and friendly relations among nations, these foreign visitors spent $12,000,000,000 on goods and services while in the United States;

Whereas a substantial increase in the number of foreign visitors to the United States is expected in 1984 in conjunction with the holding of the Olympic games in Los Angeles, California, and the Louisiana World Exposition in New Orleans, Louisiana; and

Whereas it is in the interest of the United States to encourage as many foreign visitors to the United States as possible, to inform such visitors of recreational and commercial opportunities throughout the United States, and to facilitate their entry into and travel within the United States: Now, therefore, be it

Resolved, That it is the sense of the Senate that:

(1) The Secretary of Commerce should undertake all necessary steps to encourage foreign nationals to attend the 1984 Olympic games and the Louisiana World Exposition.

(2) In conjunction with these efforts, the Secretary of Commerce should implement a systematic plan to interest such foreign nationals in other recreational and commercial activities throughout the United States.

(3) The Secretary of Commerce should consult with the Secretary of the Treasury and the Attorney General of the United States to develop and implement, before the 1984 Louisiana World Exposition, a national plan to consolidate the inspection functions pertaining to international travelers and cargo carried out by the Cabinet departments listed above. In order to reduce and eliminate any unwarranted delays and inconvenience to passengers and shippers at United States gateway and preclearance airports, such plan should include, but not be limited to, the increased use of automated and advanced screening techniques that enhance both law enforcement and the expeditious flow of passengers and cargo, expansion of simplified passenger and cargo inspection procedures, and more cost effective use of combined Federal manpower resources.

(4) The Secretary of Commerce should, pursuant to section 203 of the International Travel Act of 1961, assist State and local governments, and other private and public entities, to facilitate and encourage travel throughout the United States by residents of foreign countries visiting the United States for the 1984 Olympic games and the 1984 Louisiana World Exposition.

Mr. **BAKER.** Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. **BYRD.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPRECIATION OF JAPANESE GOVERNMENT IN CONNECTION WITH THE KOREAN AIR LINES TRAGEDY

Mr. **BAKER.** Mr. President, next I ask that the Chair lay before the Senate, Senate Resolution 223.

The **PRESIDING OFFICER.** The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 223) to express the appreciation of the American people for the efforts of the Japanese Government in connection with the Korean Air Lines tragedy.

The **PRESIDING OFFICER.** Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. **MURKOWSKI.** Mr. President, I thank the senior Senator from Alaska (Mr. STEVENS) and the Senator from Illinois (Mr. PERCY) the Senators from South Dakota (Mr. ABDNOR and Mr. PRESSLER) the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from New Mexico (Mr. DOMENICI), and the Senators from Washington (Mr. EVANS and Mr. GORTON) for cosponsoring this resolution. I hope that all my colleagues will join us in supporting this expression of gratitude to the Japanese people for their contribution to helping the world understand the facts surrounding the Korean airliner tragedy.

The Japanese Government has made two unique contributions. First, the Government of Japan decided to release the intelligence tape which recorded the Soviet pilot's communication with the ground command post. Without that tape, Soviet evasion and disinformation might have been more convincing and the world would have had a much more difficult time judging the truth. The Japanese have also played an invaluable role in assisting international efforts to search the seas in the area where the plane is believed to have gone down. We all hope that the so-called black box, the in-flight recorder, can soon be found so that we may have all the available facts at our disposal.

Japan has also demonstrated a reaction to the tragedy which is similar to our own:

On behalf of its people, the Japanese Government has strongly demanded from the Soviet Union a full explanation and formal apology.

Both Houses of the Japanese Parliament, the National Diet, have adopted resolutions unanimously denouncing the Soviet Union.

The Government of Japan has decided to suspend Aeroflot flights and Japan Airline flights between Japan and the Soviet Union.

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#157069

Congressional Travel and Tourism Caucus
U.S. House of Representatives
H2-246
Washington, D.C. 20515
(202) 225-3935

August 3, 1983

The Honorable Ronald Reagan
President, United States of America
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Mr. President:

We are writing to urge you to move forward and improve our outdated inspection system at U.S. gateway airports before the beginning of the 1984 Summer Olympics in Los Angeles and the World's Fair in New Orleans. In view of these two major world-wide events that will be hosted by the United States, we feel it is imperative to develop and implement a plan to consolidate the primary functions of our national inspection system.

It is widely recognized that our present inspection system is severely undermanned and operates under laws and regulations enacted in the early days of steamship travel. We believe that to take full advantage of the expected influx of foreign visitors, we must make changes in the way our inspection system works so we can alleviate the unnecessary congestion and long delays at our airports.

With the passage of the National Tourism Policy Act, the Congress mandated the stimulation of travel to the United States through the encouragement of free and welcome entry of individuals traveling to our country. Nevertheless, little has been done to modernize the inspection process at U.S. airports of entry. The time has come for us to recognize the many economic benefits of increased international travel and trade. In 1981, twenty-three million foreign visitors spent $12.2 billion in the U.S., directly supporting 320,000 jobs. The travel and tourism industry generates approximately $18 billion in federal, state and local tax revenue each year.

Steering Committee
[illegible] H. Boner (D-Tennessee), Chairman
Robert E. Badham (R-California), Vice Chairman
[illegible] (D-Florida), Secretary/Treasurer
[illegible] K. Akaka (D-Hawaii)
[illegible] (D-Arkansas)
[illegible] (D-Texas)

Norman F. Lent (R-New York)
Harry Reid (D-Nevada)
Don [illegible] (R-Pennsylvania)
Toby Roth (R-Wisconsin)
Marty Russo (D-Illinois)
Olympia J. Snowe (R-Maine)

Robin Tallon (D-South Carolina)
Barbara F. Vucanovich (R-Nevada)
Robert A. Young (D-Missouri)

Executive Director
[illegible] Franklin

16482

The Honorable Ronald Reagan
Page 2

Again, we urge you to take full advantage of this increased visitation to our country by implementing effective policies that will make our airport inspection system as modern and as convenient as possible.

Sincerely,

75 Robert E. Badham Vice Chairman	34 Bill Boner William [illegible] Boner Chairman	286 Bill Nelson Bill Nelson Secretary/Treasure
341 Marty Russo Marty Russo, M.C.	13 Robert A. Young Robert A. Young, M.C.	57 Don Ritter Don Ritter, M.C.
Daniel K. Akaka Daniel K. Akaka, M.C.,	391 Robin Tallon Robin Tallon, M.C.	336 Toby Roth Toby Roth, M.C.
218 Norman F. Lent Norman F. Lent, M.C.	217 Mickey Leland, M.C.	337 Olympia Snowe, M.C.
Bill Alexander, M.C.	407 Barbara Vucanovich Barbara Vucanovich, M.C.	326 Harry M. Reid, M.C.

H37-11

KD

Congress of the United States
House of Representatives
Washington, D.C. 20515

July 19, 1983

The Honorable Ronald Reagan
The White House
Washington, D.C. 20500

Dear Mr. President:

The House of Representatives is on record in calling for the Office of Management and Budget (OMB) to expedite consolidation of the primary federal inspection functions to facilitate the efficient movement and clearance of people and cargo at U.S. airport border inspection points.

In view of the importance of inspection consolidation of Customs and Immigration Service to the State of California, with its numerous points of entry, we would like to urge you to direct OMB to initiate action to implement a consolidation plan. Such a plan, however, should not include the Animal and Plant Health Inspection Service of the Department of Agriculture because of its specialized nature.

We would also like to suggest that an early implementation of such a plan might well enhance our country's response to the influx of foreign visitors who will be entering the United States for the 1984 Summer Olympics in Los Angeles, California. Therefore, an early decision by OMB would seem essential if we are not to lose an important opportunity to improve our entry procedures.

Sincerely,

Carlos J. Moorhead
CARLOS J. MOORHEAD, M.C.

Ed Zschau
ED ZSCHAU, M.C.

David Dreier
DAVID DREIER, M.C.

Ron Packard
RON PACKARD, M.C.

58
Gene Chappie
EUGENE A. CHAPPIE, M.C.

CHARLES PASHAYAN, M.C.

Dan Lungren
DAN LUNGREN, M.C.

Norman D. Shumway
NORMAN SHUMWAY, M.C.

23D Bill Lowery
BILL LOWERY, M.C.

24D ROBERT LAGOMARSINO, M.C.

15 ROBERT BADHAM, M.C.

105 MERVYN M. DYMALLY, M.C.

.20 24D Mel Levine
MEL LEVINE, M.C.

Edward R. Roybal
-33 EDWARD R. ROYBAL, M.C.

12D Duncan Hunter
DUNCAN HUNTER, M.C.

Glenn M. Anderson
6 GLENN M. ANDERSON, M.C.

268 NORMAN MINETA, M.C.

12D Bobbi Fiedler
BOBBI. FIEDLER, M.C.

25D Al McCandless
AL McCANDLESS, M.C.

398 Bill Thomas
WILLIAM THOMAS, M.C.

17D Augustus F. Hawkins
AUGUSTUS F. HAWKINS, M.C.

227 Jerry Lewis
JERRY LEWIS, M.C.

82.53 Bill Dannemeyer
WILLIAM DANNEMEYER, M.C.

U.S. Senate Tourism Caucus

John W. Warner, Virginia
Co-Chairman
202-224-2023

Jim Sasser, Tennessee
Co-Chairman
202-224-3344

October 18, 1983

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

As sponsor and cosponsors of S.Res. 167, and on behalf of the 72 members of the Senate Tourism Caucus, we write to urge that the Cabinet Council meeting scheduled for October 19, 1983 consider and promptly seek implementation of recommendations intended to consolidate primary federal inspection functions at U.S. airport and border inspection points.

In 1984 the United States will host the Olympic summer games in Los Angeles and the World Exposition in New Orleans, Louisiana. Both events are of major significance to international tourism and are certain to bring thousands of visitors to our country. It is our hope that these visitors will have a pleasant experience while they are here, and that they will return to their homelands to speak favorably and ecourage others to travel in their footsteps.

As with other endeavors, first impressions are lasting impressions in travel and tourism. Unfortunately, unless the Cabinet Council acts expeditiously, we believe the first impression most foreign visitors will have when they come for the Olympics and the World Exposition will not be good.

Our present entry and inspection system offers foreign travelers long lines, long waits and great confusion. It does not effectively accommodate non-English speaking visitors.

In our opinion, it is critical that this situation be corrected if the United States is to have any chance of expanding its popularity as an international destination, reaping all the economic benefits that entails.

The time has come and the opportunity is golden. The Congress has expressed itself clearly and national policy mandates action. Without a solution, the problems facing visitors at our points of entry may well become matters of significant national embarrassment, a situation no one wants.

Thank you for your attention to this matter.

Sincerely,

Jim Sasser

Jim Sasser
Co-Chairman
Senate Tourism Caucus

John Warner

John W. Warner
Co-Chairman
Senate Tourism Caucus

Russell Long

Russell Long

Larry Pressler

Larry Pressler
Chairman
Subcommittee on Tourism
Senate Committee on Commerce, Science and Transportation

Congressional Travel and Tourism Caucus
U.S. House of Representatives
H2-246
Washington, D.C. 20515
(202) 225-3935

October 17, 1983

Honorable Donald T. Regan
Secretary of the Treasury
15th & Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Secretary Regan:

Recently the Congressional Travel and Tourism Caucus Steering Committee Members wrote President Reagan requesting him to move forward and improve our federal inspection system at U.S. gateway airports. Because I have been informed that this subject will be discussed at the upcoming Cabinet Council meeting, I would like once again to express our strong support for such an effort.

We believe that a plan is needed to consolidate the primary functions of our national inspection system, so we can more efficiently process passengers and cargo at our airports of entry. Furthermore, we are gravely concerned about problems that could be created if such a plan is not in place before the beginning of the 1984 Summer Olympics and the World's Fair. Our nation stands to reap great economic benefits as a result of these two major world-wide events. We think it is only fitting that as the host country, we should develop and implement a plan which will eliminate unnecessary congestion and long delays at our airports.

I am quite pleased to see this matter receive the Cabinet's attention and I sincerely hope you will favor implementing policies to make our airport inspection system as modern and as convenient as possible.

Sincerely,

Bill Boner

William H. Boner
Chairman

Steering Committee
William H. Boner (D-Tennessee), Chairman
Robert E. Badham (R-California), Vice Chairman
Bill Nelson (D-Florida), Secretary/Treasurer
Daniel K. Akaka (D-Hawaii)
Bill Alexander (D-Arkansas)
Norman F. Lent (R-New York)
Harry Reid (D-Nevada)
Don Ritter (R-Pennsylvania)
Toby Roth (R-Wisconsin)
Marty Russo (D-Illinois)
Olympia J. Snowe (R-Maine)
Robin Tallon (D-South Carolina)
Barbara F. Vucanovich (R-Nevada)
Robert A. Young (D-Missouri)

Executive Director
Julie Franklin

SILVIO O. CONTE
First District, Massachusetts

Committee on Appropriations
Ranking Minority Member
Subcommittees
Labor–Health and Human
Services–Education
Transportation
Legislative
Ex Officio Member
of All Subcommittees

Committee on Small Business
Subcommittee on
General Oversight and the Economy

Migratory Bird
Conservation Commission

Board of Regents
Smithsonian Institution

Congreſs of the United States
House of Repreſentatives
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September 14, 1983

Mr. Edwin Meese
Counselor to the President
First Floor, West Wing
The White House
Washington, D.C. 20500

Dear Ed:

We are writing to you on the subject of primary inspection functions at airports and border inspection points. As you are aware, the idea of consolidating the control of these primary inspection functions has long been discussed in government and business circles, and has come to a point where a management decision as to how to consolidate is in order.

The question of consolidating border management functions has implications on two fronts: cost efficiency of government management, and the economy in general. From a government cost and management standpoint, the dual inspection process is unnecessarily costly to the taxpayer because of overlap of functions and duplication of inspection space and information systems. Present budgeted cost estimates for Fiscal Year 1984 for just the Customs and Immigration functions are in excess of 300 million dollars.

On the economy side, the dual inspection process is costly to both travelers and shippers. The President's Private Sector Cost Control Survey, done by the Grace Commission, cites a General Accounting Office estimate of $26 million in excess cost to air travelers due to inspection delays at airports. This figure pertains to only two major airports.

If, to the GAO estimate of costs associated with inspection delays, we add the dimension of delays due to congestion brought about by a not yet fully-staffed air traffic control system, the costs to the economy are compounded.

From a cargo facilitation standpoint, we have seen significant growth in the volume of imports processed into the United States in the last decade. Given that fact, it makes little sense to inhibit the advantages of shipping by jet aircraft by delaying the inspection process, particularly when we have the means to rectify the situation.

A third factor, not normally associated with management or economics, is the security factor. In the last decade, we have seen dramatic hikes in the numbers of people entering the United States annually. With these hikes have come the increased smuggling of drugs and other contraband. We already know the security overtones of this phenomenon.

As you are aware, there have been countless studies on this subject over the years. Some have been instigated by the Executive Branch and the President, some by the Legislative Branch, some by business groups and some by trade associations. All have come to virtually the same conclusion -- there is a definite need for consolidation of the management of primary border inspection functions.

Both the House and Senate have taken note of the need for consolidation. In various committee reports, both bodies have urged a solution to the inspection delay problem through consolidation. As a key Administration figure with a responsibility to aid in solving inspection problems, we strongly urge you to move forward with a solution (which can be expeditiously implemented) to this matter at the next cabinet council meeting. The longer the matter goes without solution, the higher the costs to the taxpayer and the economy.

Cordially yours,

Silvio O. Conte
Ranking Minority Member
House Committee on Appropriations

Edward Roybal, Chairman
Treasury-Postal Service
and General Government Subcommittee
House Committee on Appropriations

James Abdnor, Chairman
Treasury-Postal Service
and General Government Subcommittee
Senate Committee on Appropriations

PAULA HAWKINS
FLORIDA

United States Senate
WASHINGTON, D.C. 20510

July 20, 1983

The Honorable Edwin L. Harper
Assistant to the President for Policy Development
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Ed:

Over the last five years, international visitor traffic to the United States has increased by 41% and air cargo tonnage has increased by 29%, while the number of Immigration and Customs inspectors has remained virtually unchanged. The result for the traveling and shipping public has been a frustrating series of delays, backlogs, and congestion. In 1981, over 20 million international passengers entered our gateway airports and frequently experienced delays of up to three hours to be processed by our current Federal Inspection System.

As you know, international travelers provide a substantial economic benefit to our nation. In 1981, visitors from abroad spent $12.1 billion in the United States, supported 300,000 jobs, and produced $1.1 billion in federal, state, and local revenues. As our third largest source of export revenue, our visitors are a resource well worth cultivating and protecting.

Many studies have been done by GAO, OMB, committees of Congress and others on this issue. The most recent is the "Analysis of Federal Inspection Agency Management and Organization" prepared by the Air Transport Association. The conclusion of the analysis is that a consolidation of inspection procedures will increase productivity, efficiency, and more cost-effective use of existing manpower without compromising law enforcement responsibilities.

It would appear that the consolidation concept is consistant with Administration policy to reduce government spending and increase efficiency in government programs. There would also be a benefit to the economy through growth in tourism which is likely to result from the more expeditious flow of travelers through our gateway airports.

With the expected influx of international vistors for the 1984 Louisiana World's Fair and the Summer Olympic Games in Los Angeles, it seems appropriate that a plan be developed and implemented as soon as is practicable. The time is right for a major overhaul of our inspection system. I urge you to encourage the Attorney General and the Secretary of the Treasury to work with the Office of Management and Budget to accomplish these necessary changes prior to the two upcoming international events.

Thank you for your attention to this matter.

Sincerely,

Paula Hawkins
United States Senator

PH/kh

We urge you as an effective member of a key jurisdictional committee to join with us in supporting the efforts of the agencies, the Office of Management and Budget and the Cabinet Council on this vital issue. The compromise that has been reached is an equitable solution to a complex and long-standing problem. We encourage you and the members of your committee to set aside jurisdictional considerations which have hampered progress in the past and allow the agencies to move forward expeditiously with the single management inspection system.

Sincerely,

Air Transport Association of America

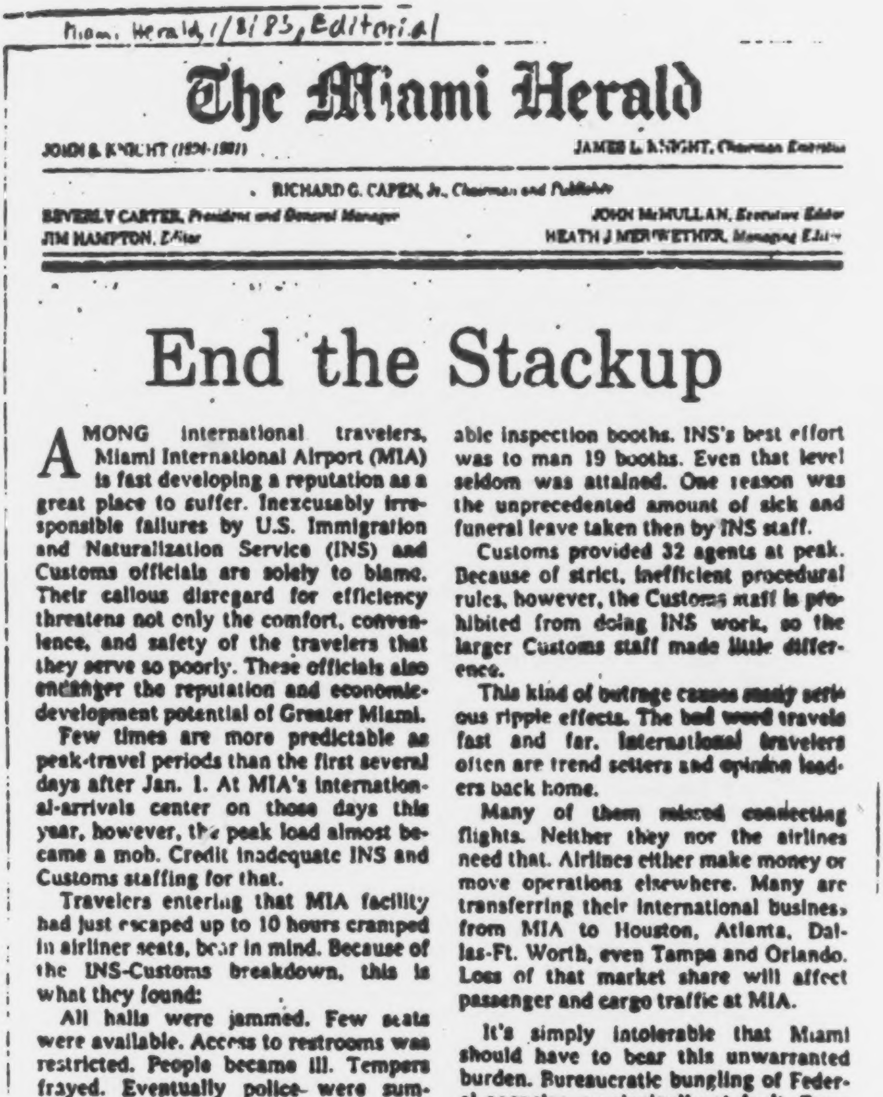
Airport Operators Council International

Travel and Tourism Government Affairs Council

Travel Industry Association of America

Membership lists attached

Miami Herald, 1/8/83, Editorial



The Miami Herald

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End the Stackup

AMONG international travelers, Miami International Airport (MIA) is fast developing a reputation as a great place to suffer. Inexcusably irresponsible failures by U.S. Immigration and Naturalization Service (INS) and Customs officials are solely to blame. Their callous disregard for efficiency threatens not only the comfort, convenience, and safety of the travelers that they serve so poorly. These officials also endanger the reputation and economic-development potential of Greater Miami.

Few times are more predictable as peak-travel periods than the first several days after Jan. 1. At MIA's international-arrivals center on those days this year, however, the peak load almost became a mob. Credit inadequate INS and Customs staffing for that.

Travelers entering that MIA facility had just escaped up to 10 hours cramped in airliner seats, bear in mind. Because of the INS-Customs breakdown, this is what they found:

All halls were jammed. Few seats were available. Access to restrooms was restricted. People became ill. Tempers frayed. Eventually police were summoned to control the crowds, lest they riot.

The average international traveler being processed through MIA then had to wait 2½ hours to gain clearance. Some people waited as long as four hours. Who wouldn't be outraged?

The INS was most to blame. Even under normal conditions, INS staffing at MIA is skimpy. This time it was worse. For extended periods during the peak, only 13 INS agents staffed the 34 available inspection booths. INS's best effort was to man 19 booths. Even that level seldom was attained. One reason was the unprecedented amount of sick and funeral leave taken then by INS staff.

Customs provided 32 agents at peak. Because of strict, inefficient procedural rules, however, the Customs staff is prohibited from doing INS work, so the larger Customs staff made little difference.

This kind of outrage causes many serious ripple effects. The bad word travels fast and far. International travelers often are trend setters and opinion leaders back home.

Many of them missed connecting flights. Neither they nor the airlines need that. Airlines either make money or move operations elsewhere. Many are transferring their international business from MIA to Houston, Atlanta, Dallas-Ft. Worth, even Tampa and Orlando. Loss of that market share will affect passenger and cargo traffic at MIA.

It's simply intolerable that Miami should have to bear this unwarranted burden. Bureaucratic bungling of Federal agencies is principally at fault. From Customs and INS must come the obvious solution — and fast. They must assure sufficient staff at MIA to eliminate this recurring debacle.

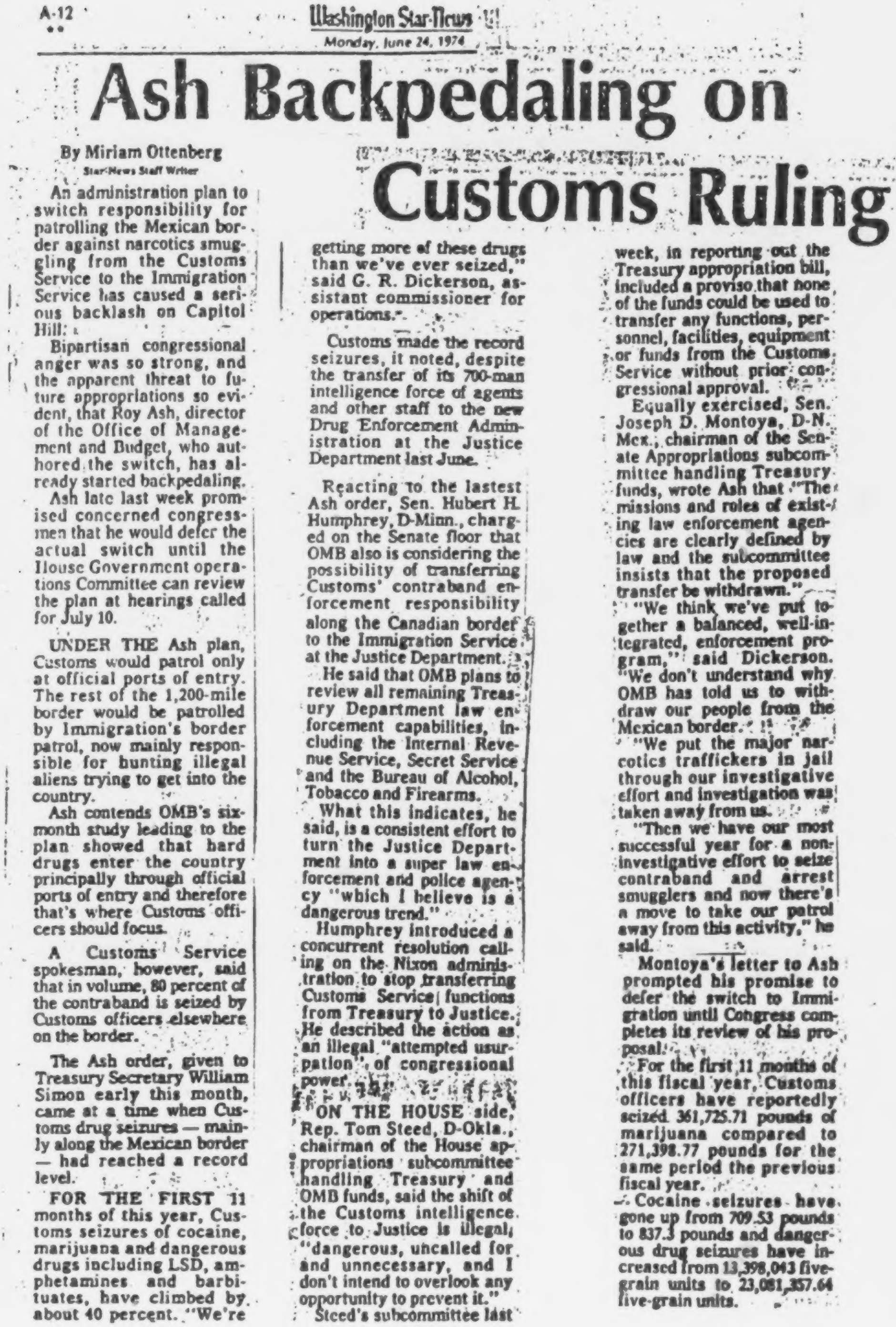
Bureaucrats can be slow to move unless the political blowtorch of budgetary pressure is set alight beneath their backsides. South Florida's representatives in Washington have plenty of fuel and many matches. They should not hesitate to turn the heat high.

THE FEDERAL INSPECTION PROCESS

	Title	Author	Date
1	Interagency Report	BOB	May 1968
2	System Concept for Drug Interception —U.S. Mexican Border	Mitre	October 1972
3	Heroin Being Smuggled Into New York City Successfully	GAO	December 7, 1972
4	A Single Agency Needed to Manage Port-of-Entry Inspectors—Particularly at U.S. Airports	GAO	May 30, 1973
5	More Needs to be Done to Reduce the Number of Adverse Impact of Illegal Aliens in the United States	GAO	July 31, 1973
6	Need for Improvements in Management Activities of the Immigration and Naturalization Service	GAO	August 14, 1973
7	U.S. Customs Service-A Summary Strategy for Border Law Enforcement Operations	Customs	February 6, 1974
8	A Secure Border; An Analysis of Issues Affecting the U.S. Department of Justice	Justice	March 4, 1974
9	Study of Law Enforcement Along Southwest Land Border	OMB	June 5, 1974
10	Law Enforcement on the Southwest Border (Problems of Coordinating Between Immigration and Naturalization Service and Customs Service)	Committee on Government Operations	December 14, 1974
11	Better Controls Needed to Prevent Foreign Students from Violating the Conditions of Their Entry and Stay While in the United States	GAO	February 4, 1975
12	Premium Pay for Federal Inspectors at U.S. Ports-of-Entry	GAO	February 14, 1975
13	Administration of the Alien Labor Certification Program Should be Strengthened	GAO	May 16, 1975

(OVER)

	Title	Author	Date
14	Need to Reduce Public Expenditures for Newly Arrived Immigrants and Correct Inequity in Current Immigration Law	GAO	July 15, 1975
15	Aliens Are Illegally Entering the U.S. Mainland Through Puerto Rico and the U.S. Virgin Islands	GAO	September 8, 1975
16	Federal Drug Enforcement Strong Guidance Needed	GAO	December 18, 1975
17	Smugglers, Illicit Documents, and Schemes are Undermining U.S. Controls over Immigration	GAO	August 30, 1976
18	Illegal Alien Study, Part 1: Fraudulent Entrants Study	INS	September 1976
19	Immigration-Needed to Reassess U.S. Policy	GAO	October 19, 1976
20	Preliminary Report	Domestic Council Comm.	December 1976
21	The Immigration and Naturalization Service	Justice	May 1977
22	If Defense and Civil Agencies Work More Closely Together, More Efficient Search/ Rescue and Coastal Law Enforcement Could Follow	GAO	May 26, 1977
23	Illegal Entry at United States—Mexico Border-Multiagency Enforcement Efforts have not been Effective in Stemming the Flow of Drugs and People	GAO	September 1977
24	The Illegal Alien Assault: The U.S. Retreats From the Border	Crim. Law Review V.14,#4	September 1977
25	Border Management and Interdiction, An Interagency Review	Drug Abuse	September 1977
26	Customs' Cargo Processing-Fewer But More Intensive Inspections Are in Order	GAO	September 1978
27	More Can be Done to Speed the Entry of International Travelers	GAO	1979
28	One-Step Inspection System Speeds the Entry of International Travelers	GAO	1982



A-12 Washington Star-News Monday, June 24, 1974

Ash Backpedaling on Customs Ruling

By Miriam Ottenberg
Star-News Staff Writer

An administration plan to switch responsibility for patrolling the Mexican border against narcotics smuggling from the Customs Service to the Immigration Service has caused a serious backlash on Capitol Hill:

Bipartisan congressional anger was so strong, and the apparent threat to future appropriations so evident, that Roy Ash, director of the Office of Management and Budget, who authored the switch, has already started backpedaling.

Ash late last week promised concerned congressmen that he would defer the actual switch until the House Government operations Committee can review the plan at hearings called for July 10.

UNDER THE Ash plan, Customs would patrol only at official ports of entry. The rest of the 1,200-mile border would be patrolled by Immigration's border patrol, now mainly responsible for hunting illegal aliens trying to get into the country.

Ash contends OMB's six-month study leading to the plan showed that hard drugs enter the country principally through official ports of entry and therefore that's where Customs officers should focus.

A Customs Service spokesman, however, said that in volume, 80 percent of the contraband is seized by Customs officers elsewhere on the border.

The Ash order, given to Treasury Secretary William Simon early this month, came at a time when Customs drug seizures — mainly along the Mexican border — had reached a record level.

FOR THE FIRST 11 months of this year, Customs seizures of cocaine, marijuana and dangerous drugs including LSD, amphetamines and barbituates, have climbed by about 40 percent. "We're getting more of these drugs than we've ever seized," said G. R. Dickerson, assistant commissioner for operations.

Customs made the record seizures, it noted, despite the transfer of its 700-man intelligence force of agents and other staff to the new Drug Enforcement Administration at the Justice Department last June.

Reacting to the lastest Ash order, Sen. Hubert H. Humphrey, D-Minn., charged on the Senate floor that OMB also is considering the possibility of transferring Customs' contraband enforcement responsibility along the Canadian border to the Immigration Service at the Justice Department.

He said that OMB plans to review all remaining Treasury Department law enforcement capabilities, including the Internal Revenue Service, Secret Service and the Bureau of Alcohol, Tobacco and Firearms.

What this indicates, he said, is a consistent effort to turn the Justice Department into a super law enforcement and police agency "which I believe is a dangerous trend."

Humphrey introduced a concurrent resolution calling on the Nixon administration to stop transferring Customs Service functions from Treasury to Justice. He described the action as an illegal "attempted usurpation" of congressional power.

ON THE HOUSE side, Rep. Tom Steed, D-Okla., chairman of the House appropriations subcommittee handling Treasury and OMB funds, said the shift of the Customs intelligence force to Justice is illegal, "dangerous, uncalled for and unnecessary, and I don't intend to overlook any opportunity to prevent it."

Steed's subcommittee last week, in reporting out the Treasury appropriation bill, included a proviso that none of the funds could be used to transfer any functions, personnel, facilities, equipment or funds from the Customs Service without prior congressional approval.

Equally exercised, Sen. Joseph D. Montoya, D-N. Mex., chairman of the Senate Appropriations subcommittee handling Treasury funds, wrote Ash that "The missions and roles of existing law enforcement agencies are clearly defined by law and the subcommittee insists that the proposed transfer be withdrawn."

"We think we've put together a balanced, well-integrated, enforcement program," said Dickerson. "We don't understand why OMB has told us to withdraw our people from the Mexican border.

"We put the major narcotics traffickers in jail through our investigative effort and investigation was taken away from us.

"Then we have our most successful year for a non-investigative effort to seize contraband and arrest smugglers and now there's a move to take our patrol away from this activity," he said.

Montoya's letter to Ash prompted his promise to defer the switch to Immigration until Congress completes its review of his proposal.

For the first 11 months of this fiscal year, Customs officers have reportedly seized 361,725.71 pounds of marijuana compared to 271,398.77 pounds for the same period the previous fiscal year.

Cocaine seizures have gone up from 709.53 pounds to 837.3 pounds and dangerous drug seizures have increased from 13,398,043 five-grain units to 23,081,357.64 five-grain units.

[illegible]
STEPHEN L. NEAL, N.C.
RONALD D. COLEMAN, TEX.
ROBERT E. WISE, JR., W. VA.
BUDDY MACKAY, FLA.
EDOLPHUS TOWNS, N.Y.

[illegible]
TOM LEWIS, FLA.
DAN BURTON, IND.

(202) 225-3741

NINETY-EIGHTH CONGRESS
Congress of the United States
House of Representatives
GOVERNMENT INFORMATION, JUSTICE, AND AGRICULTURE
SUBCOMMITTEE
OF THE
COMMITTEE ON GOVERNMENT OPERATIONS
B-349-C RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515

January 30, 1984

The Honorable William French Smith
Attorney General of the United States
The Department of Justice
Washington, D.C. 20530

Dear Mr. Attorney General:

This subcommittee exercises oversight responsibility over the Justice Department. In that regard, we have been engaged in a multi-year study of the economy and efficiency of the nation's drug interdiction program. We have convened over a dozen hearings and issued three reports, copies of which have been submitted to you.

We were rather surprised to discover last month that the Administration was seriously entertaining a proposal which would significantly reorganize the missions of the U.S. Customs Service and the Immigration and Naturalization Service with regard to drug interdiction. At a briefing in my office, I asked representatives of INS, Customs, and OMB for copies of any studies which would support the reorganization proposal in terms of either economy or efficiency. I was assured that copies of such documents would be provided.

The idea for border reorganization is not new. In fact, President Nixon, through his OMB Director Roy Ash, also advanced a reorganization plan, although its essence was the exact opposite of yours. He proposed to turn the land border ports of entry over to Customs, while you propose that they should be given to INS. President Nixon's rationale, based on an extensive study by Ash, was that hard drugs entered primarily through official ports of entry, and that that is where Customs Officers should be.

I do not maintain that the Ash Report, or the Nixon reorganization proposal, was necessarily correct. If, in fact, your proposed reorganization is the superior one, then it is a fortunate thing indeed that the Congress rejected Mr. Nixon's. On the other hand, Mr. Nixon was able to present a comprehensive, if not compelling, study to document his request.

Your position appears to be that you would like the Congress to accept on faith the conclusion that the current reorganization proposal would enhance drug seizures and create other unspecified efficiencies. There is a burden on you to refute Mr. Ash. Certainly, there has been nothing advanced which would make the current proposal any more compelling than those which have been rejected in the past.

I am not opposed to any reorganization which would, in fact, either save significant amounts of money or materially improve drug interdiction. I have recently advanced numerous suggestions along these lines, some of which have been accepted and implemented by the Administration. I am still waiting, however, for the first piece of evidence that would support your plan.

I will be scheduling hearings in the near future at which you will be given an opportunity to present whatever information you feel will support your proposal. Pending that, I again request that you submit to the Subcommittee any current studies or evaluations on this subject.

Thank you for your cooperation.

Sincerely,

Glenn English
Chairman

[illegible]
STEPHEN L. NEAL, N.C.
RONALD D. COLEMAN, TEX.
ROBERT E. WISE, JR., W. VA.
BUDDY MACKAY, FLA.
EDOLPHUS TOWNS, N.Y.

[illegible]
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DAN BURTON, IND.

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NINETY-EIGHTH CONGRESS
Congress of the United States
House of Representatives
GOVERNMENT INFORMATION, JUSTICE, AND AGRICULTURE
SUBCOMMITTEE
OF THE
COMMITTEE ON GOVERNMENT OPERATIONS
B-349-C RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515

January 30, 1984

The Honorable David A. Stockman
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Stockman:

This subcommittee has been engaged in a multi-year study of the economy and efficiency of the nation's drug interdiction program. In this regard we have convened over a dozen hearings and issued three reports.

We were rather surprised to discover last month that the Administration was seriously entertaining a proposal which would significantly reorganize the missions of the U.S. Customs Service and the Immigration and Naturalization Service with regard to drug interdiction. At a briefing in my office, I asked representatives of INS, Customs, and OMB for copies of any studies which would support the reorganization proposal in terms of either economy or efficiency. I was assured that copies of such documents would be provided, but nothing has been submitted in the six weeks since the briefing.

The idea for border reorganization is not new. In fact, President Nixon, through his OMB Director Roy Ash, also advanced a reorganization plan, although its essence was the exact opposite of yours. He proposed to turn the land border ports of entry over to Customs, while you propose that they should be given to INS. President Nixon's rationale, based on an extensive study by Ash, was that hard drugs entered primarily through official ports of entry, and that that is where Customs Officers should be.

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I will be scheduling hearings in the near future at which you will be given an opportunity to present whatever information you feel will support your proposal. Pending that, I again request that you submit to the Subcommittee any current studies or evaluations on this subject. I also request a complete copy of the study completed by Mr. Ash, including any report of the study or recommendations advanced which were based thereon.

Thank you for your cooperation.

Sincerely,

Glenn English
Chairman

Congressional Research Service
The Library of Congress

Washington, D.C. 20540

PROPOSED CUSTOMS-INS BORDER INSPECTION CONSOLIDATION

Frederick M. Kaiser
Specialist in American National Government
Government Division
March 12, 1984

PROPOSED CUSTOMS-INS BORDER INSPECTION CONSOLIDATION

In November 1983, President Reagan's Cabinet Council on Management and Administration (CCMA) proposed to consolidate border inspection operations of the U.S. Customs Service, Department of the Treasury and of the Immigration and Naturalization Service (INS), Department of Justice. 1/ The specific proposal, described by CCMA as a "compromise" which "has the support of both INS and Customs," is designed to reduce and expedite border inspection for incoming passengers; and its "intent is to use resources more effectively to protect our borders." 2/ CCMA's proposal only set broad guidelines for consolidating primary inspection and transferring certain of Customs' activities. It did not provide a cost-benefit estimate, schedule a definite timetable for its implementation (although it is expected to be completed before the end of fiscal year 1984), or specify the express authority under which such a change, affecting agencies in two separate departments, would occur. Those matters, it implied, were either dealt with in previous studies and reports or would be developed further by a working group composed of representatives from the Departments of Justice, Treasury, and Agriculture, and the Office of Management and Budget (OMB). 3/

1/ U.S. Cabinet Council on Management and Administration. Congressional Briefing on Border Inspection Consolidation (Nov. 16, 1983). Washington, 1983. The actual proposal is a two-page typed statement, accompanied by excerpts from a fiscal year 1983 appropriations committee report, congressional correspondences and statements from the Congressional Record, press clippings, and a 1979 General General Accounting Office Study.

2/ Ibid., p. 2.

3/ Ibid., p. 1-2.

The basic objectives of the CCMA proposal, as summarized in the November statement, are the following:

—primary inspection on land ports will be the responsibility of INS,

—primary inspection at air and sea ports will be the responsibility of Customs, and

—some portions of the border patrol activity will be transferred from Customs to INS (the precise portions to be transferred are not identified in the CCMA statement). 4/

The secondary (or backup supplementary) inspection activities of INS and Customs are to "remain essentially in tact." 5/ Moreover, the consolidation is not intended to affect the inspection activities of other agencies, such as the U.S. Coast Guard in the Department of Transportation, the Justice Department's Drug Enforcement Administration (DEA), or the Animal and Plant Health Inspection Service (APHIS) in USDA. 6/

ANTECEDENTS TO THE PRESENT RECOMMENDATION

The goal of more effective and efficient border management, including port-of-entry inspection, has a long heritage. Beginning in 1930, numerous proposals have been advanced by the executive and legislative branches to consolidate, transfer, merge, reorganize, or shift authority and jurisdiction of affected agencies, including as many as eight units among four cabinet departments. 7/

4/ Ibid., p. 2.

5/ Ibid.

6/ Ibid.

7/ Major ones, through 1978, are reviewed in U.S. Library of Congress. Congressional Research Service. The U.S. Customs Service: History, Reorganization, and Congressional Jurisdiction. CRS Report No. 78-128 GOV. Washington, 1978. p. 15-58.

President Hoover, concerned with the enforcement of Prohibition, illicit narcotics trafficking, and illegal immigration, twice proposed a unified border patrol, through the merger of the Customs and Immigration Border Patrols under the supervision of the Coast Guard. 8/ More recently, in 1977, the President's Reorganization Project (PRP), following the lead of the Executive Office of Drug Abuse Policy, raised two prominent options for creating a new Border Management Agency (to be located in either the Treasury or Justice Department), by combining either the border patrols of INS and Customs or all of both Services. It also suggested that, at a minimum, Customs and INS interagency coordination must improve at ports of entry as well as along the border between ports. 9/

In 1981, the bipartisan Attorney General's Task Force on Violent Crime recommended considering "the transfer of the Border Patrol of the Department of Justice [i.e., Immigration and Naturalization Service] to the U.S. Customs Service . . . [to] permit more effective coordination in the effort to reduce the flow of narcotics into this country." 10/ The Reagan Administration has not acted on this proposal.

One recommendation along these lines was formally, but only temporarily, approved by Congress in Reorganization Plan No. 2 of 1973 (87 Stat. 1091). President Nixon's Plan included two parts. The first was establishment of a

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8/ Based upon a recommendation from the Treasury Department, the 1930 unification proposal (H.R. 11204, 71st Congress, 2d session) was approved by the House but failed to pass the Senate. Congressional Record, v. 72, July 1, 1930. p. 12217-12237. Two years later, under new presidential reorganization authority, President Hoover submitted a nearly identical proposal, as one of eleven reorganization plans affecting 58 agencies. They were all defeated. Congressional Record, v. 76, Jan. 19, 1933. p. 2110-2126.

9/ U.S. President's Reorganization Project. Reorganization Options Related to Border Management (draft). Washington, Office of Management and Budget, 1977. p. 12-17.

10/ U.S. Department of Justice. Attorney General's Task Force on Violent Crime. Final Report. Washington, U.S. Govt. Print. Off., 1981. p. 43.

Drug Enforcement Administration in the Justice Department, accomplished in part through the transfer of Customs Service personnel, resources, and authority. Part two contained a quid pro quo, with Customs receiving some 1,000 employees from INS and authority for virtually all of port-of-entry inspections. Customs' potential acquisition, however, materialized only on paper. The Reorganization Plan was accepted by the House only with the understanding that the part augmenting Customs at INS' expense would be repealed by separate legislative action. 11/ That was accomplished early in the next session (88 Stat. 50).

In the aftermath of this annulment, Customs reinstituted a uniformed border patrol, which in turn was criticized for causing "controversy and friction . . . [with] other Federal, state, and local law enforcement agencies." 12/ At that point, Congress requested that OMB "study and assess the situation in the interest of eliminating duplication and effecting better coordination." 13/

The Office, however, went beyond that directive and sanctioned a test of a single-agency management strategy; it called for a redeployment of Customs agents, preventing their patrolling the Mexican border between ports of entry, and for a "cross designation" of INS agents as Customs agents. The House Government Operations Committee, based upon an interpretation by the Comptroller General, questioned the propriety and legality of OMB's actions. Most important was the uncertainty that OMB (or the President, for that matter) had authority to make changes of this magnitude without express legislative authorization, in

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11/ Congressional Record, v. 119, June 7, 1973. p. 18493-18499.

12/ U.S. Congress. House. Committee on Government Operations. Law Enforcement on the Southwest Border (Problems of Coordination between Immigration and Naturalization Service and Customs Service). House Report No. 93-1630, 93d Cong., 2d Sess. Washington, U.S. Govt. Print. Off., 1974. p. 2.

13/ Ibid.

the form of either a public law or approval of a reorganization plan. Behind this challenge were several concerns: that the OMB-sanctioned test, in effect, improperly transferred functions, even if temporarily, from one department to another; that it prevented Customs from carrying out its statutory responsibilities, at least along the Mexican border; and that the cross-designated INS agents lacked legal authority and appropriate training to use Customs' extraordinary search and seizure powers. 14/

The objective of the type of proposal described above, for the most part, has been increased productivity and effectiveness, specifically improved law enforcement and border management. A second approach concentrated upon greater efficiency in operations and reduced expenditures. Reflecting this latter concern with economy and efficiency, the President's Private Sector Survey on Cost Control, commonly known as Grace Commission, released two task force reports—one on the Justice Department and one on Treasury—which included recommendations for INS and Customs port-of-entry inspection. 15/ (The reports were released in July 1983, approximately three months before the CCMA proposal; but the CCMA proposal did not cite the Grace Commission Task Forces' recommendations.)

The Treasury Task Force advised that "all responsibility for primary inspection functions currently performed at ports of entry [be placed] into one agency." 16/ Its report did not identify a specific recipient, namely, Customs,

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14/ Ibid., p. 5-18.

15/ U.S. President's Private Sector Survey on Cost Control. Task Force Report on the Department of the Treasury (Submitted to the Subcommittee for Consideration at Its Meeting on July 13, 1983). Washington, 1983. p. 90; and Task Force Report on the Department of Justice (Submitted to the Subcommittee for Its Consideration at Its Meeting on July 13, 1983). Washington, 1983. p. 115.

16/ Task Force Report on the Department of the Treasury, p. 90.

INS, or a new agency; and the recommendation applied only to INS and Customs, leaving the responsibilities of other inspection agencies unchanged. 17/

The Justice Department Task Force developed a more elaborate series of recommendations. It found that "consolidation of [port-of-entry inspection] responsibilities within an existing Cabinet department is attractive" 18/ and, recognizing the leadership that OMB might exercise, proposed a new assignment for it:

> OMB should assume responsibility for coordinating the activities of the various inspection services as a short-term solution . . . The Administration should immediately upgrade and extend cross-training for all inspectors so that when consolidation is achieved, all inspectors will be prepared to perform their new duties. 19/

The Justice Department Task Force, however, recommended that "OMB withdraw its previous proposal to transfer all inspection responsibilities to Customs," until "a 'best and final' economic analysis of two possible strategies" is completed by the Attorney General and Secretary of the Treasury. 20/ Those two strategies would either (1) assign all inspection responsibilities to Customs or (2) split them definitively, with INS handling all arriving passenger and accompanying baggage inspection and Customs, all cargo and unaccompanied baggage inspection. 21/

A final, recent study that relates to Customs and INS inspection operations was released in 1979 and has been attached to the President's Cabinet Council on Management and Administration proposal. That is a General Accounting Office

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17/ Ibid., p. 89.

18/ Task Force on the Department of Justice, p. 115.

19/ Ibid., p. 116.

20/ Ibid.

21/ Ibid.

report advocating a one-stop primary inspection procedure for incoming passengers at all ports of entry, not just land entry ports. 22/ It would require a single inspector, representing all agencies, to conduct the initial screening of all passengers and thereby consolidate the primary inspection responsibilities of INS, Customs, and Animal and Plant Health Inspection Service (APHIS). Afterwards, individual passengers and baggage may be selected for further clearance processing by one or more of the agencies. The GAO recommendation would also require altering the enforcement policies of the affected agencies, as well as remodeling some airports to accomodate the new arrangements. 23/

ANALYSIS OF THE CCMA PROPOSED CONSOLIDATION

Numerous and varied proposals have emerged from similar findings about INS and Customs inspection and border control operations. It has been widely argued that effective and efficient border management is hampered by duplication of effort, overlapping jurisdictions, and compartmentalized, fragmented agency activity. Yet, as described above, the prescribed remedies to these perceived ills vary. The prominent recommendations, including CCMA's, differ in many respects:

> in the number and identification of the agencies affected, although INS and Customs are included in all;
>
> in the departmental and agency location of a consolidated service or operation, such as primary inspection at ports of entry;
>
> in the method and authority for implementing a recommendation;
>
> in cost-benefit estimates (if even provided), depending upon the extensiveness of the changes;

22/ U.S. General Accounting Office. More Can Be Done To Speed the Entry of International Travelers. GGD-79-84, Aug. 30, 1979. Washington, 1979.

23/ Ibid., p. 1-7.

> and in the type and extent of reorganization, ranging from modest improvements in resources and coordinative mechanisms, to selective redeployments of inspectors in the field, to limited transfers of authority and jurisdiction, and, finally, to wholesale mergers of entire agencies.

Some of the recommendations, or their individual aspects, reinforce or complement all or part of the CCMA proposal.

No one recommendation, however, mirrors all of CCMA's features. Moreover, some conflict with the specific CCMA proposal or raise questions about its assumptions regarding costs and benefits, existing discretionary authority for the consolidation, and its impact on the agencies themselves and related operations. Some of the questions that can be raised or implied are:

--For what reasons should INS or Customs be designated the primary inspector at which ports of entry (air, sea, and land)? What criteria have determined that INS should be the primary inspector at land ports of entry and Customs at air and sea ports, as opposed to other alternatives (e.g., making Customs the primary inspector at all ports of entry)?

--Why is Animal and Plant Health Inspection Service not included in the consolidation of port-of-entry inspection operations?

--What impact would the consolidation have on the affected agencies in general or on their remaining duties and responsibilities which are intimately connected with the change?

--More specifically, what portion of Customs border patrol activity should be transferred to INS and what impact would that have on INS' current services, activities, and operations?

--What effect would the transformation have on other agencies that presently rely upon Customs or INS to conduct inspections or to screen incoming passengers on their behalf or that work with either one directly and extensively (e.g., the FBI or DEA with Customs in anti-drug trafficking operations and the FBI and State Department with INS in monitoring certain foreign visitors)?

--What precise costs and benefits can be estimated?

--What preliminary arrangements have been made for cross-training INS and Customs inspectors, beyond the current level, to undertake their proposed new assignments; what is the present schedule for implementing the consolidation?

—Does the objective of streamlined port-of-entry inspections, accompanied by improved economy and efficiency in operations, conflict with or undermine the goal of increased effectiveness in law enforcement and border control?

—How has the proposed border inspection consolidation been affected by the recent budget reductions or increases for the Customs Service and for INS, in particular, and for related agencies and operations (such as the regional Organized Crime Drug Enforcement Task Forces)?

—Does appropriate authority now exist to accomplish the proposed consolidation or is new legislation needed? As a corollary, do OMB and the affected departments and agencies have the authority to carry out the following: redeploy agents; transfer primary inspection responsibilities from one agency to another in a different department; permanently assign duties and (presumably) authority from one agency to inspectors in another; and transfer certain border patrol activities from Customs to INS?

These questions cannot be fully addressed in this limited analysis, but they can guide a preliminary examination as well as further congressional and administrative inquiries into the CCMA proposal.

Consolidation Criteria

The CCMA proposal does not explain why Customs would be assigned primary inspection responsibilities at air and sea ports of entry and INS at all land ports, in light of other recommendations that differ in important respects, and why APHIS inspections would be excluded from such a consolidation. The criteria for the proposed consolidation are unstated; and since the CCMA recommendation differs from others in the field, the criteria may also differ.

The 1979 GAO study, which the CCMA proposal cites favorably, for example, explicitly includes APHIS, recognizing that its enforcement policy requires all hand-carried items to be inspected for prohibited plants and food. That enforcement policy, according to the GAO report, results in unnecessary delays, the very reason why GAO included APHIS in its proposed restructuring. 24/ And in a follow-up report on tests of one-stop inspection at two international airports, GAO found that modifying those policies was valuable in speeding up the process. 25/ Since inordinate and perceived unnecessary delays were why CCMA justified a consolidation of port-of-entry inspections, the Cabinet Council proposal might be enlarged to include APHIS inspection responsibilities or the Council might explain why they should not be affected.

CCMA's division of primary inspection responsibilities between Customs and INS runs counter to several other major initiatives. Reorganization Plan No. 2 of 1973, as advanced by President Nixon and OMB, called for Customs to be the primary inspector at all ports of entry, including land entry points. In 1977, two Executive Office reports suggested, through the criteria they developed, that Customs was the better location for consolidated border management operations, even though they did not designate a specific agency. 26/ And the 1981 Attorney General's Task Force on Violent Crime identified Customs as the better alternative for consolidating border patrol activities. 27/ Each of these attribute superiority to Customs over INS for one or more reasons: a longer heritage in border inspection and control, broader inspection and law enforcement authority (including impressive search and seizure powers), more expansive and varied responsibilities in border management, lengthier and more extensive experience

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24/ General Accounting Office, More Can Be Done To Speed Entry of International Travelers, p. ii.

25/ U.S. General Accounting Office. One-Stop Inspection Speeds the Entry of International Travelers. GGD-82-62, March 22, 1982. Washington, 1982. p. 2.

26/ President's Reorganization Project, Reorganization Options Related to Border Management, p. 3 and 19-23.

27/ Attorney General's Task Force, Report, p. 43.

in carrying out border inspection duties for other agencies, and a much larger commitment of resources and personnel to inspection and border management. These factors favor Customs absorbing primary inspection duties at all ports of entry, with INS serving only in a selective, secondary capacity.

An opposing viewpoint is included in the report from the Grace Commission Task Force on the Justice Department. It advised that "OMB should withdraw its previous proposal to transfer all inspection responsibilities to Customs. INS believes this proposal to be based upon incomplete analysis." 28/ The Task Force, however, did not object to such a consolidation in principle and recommended a delay only until "a 'best and final' economic analysis" could be completed. Such an analysis, according to the Justice Department Task Force, would be based upon two possible strategies: the "assignment of all inspection responsibilities to the U.S. Customs Service" or an arrangement that differs importantly from CCMA's; that is, INS handling all incoming passengers and accompanied baggage and Customs, all cargo and unaccompanied baggage. 29/ Neither of these strategies is in full agreement with the Cabinet Council's.

The CCMA proposal, in conflict with other major ones, neither justified its specific recommendations (for dividing primary and secondary inspection or for transferring certain Customs border patrol activities to INS) nor expressly articulated the standards and criteria upon which it had relied.

28/ Task Force Report on the Department of Justice, p. 116.

29/ Ibid.

Costs and Benefits

CCMA did not include a cost-benefit analysis of its proposal. But, as noted above, two GAO reports and two Grace Commission Task Force reports support the fundamental objective and assumption that consolidated, one-stop primary inspection at ports of entry will result in governmental and societal savings. The amount of such expected savings, however, varies measurably among the reports (when provided); and, it appears, the total costs associated with a specific transformation, in some cases, may be understated or not fully accounted.

For example, the two Grace Commission Task Forces presented markedly different savings estimates, based upon their own and other computations, in part because the detailed recommendations, assumptions, and completeness of the analyses differed substantially. Annual estimated savings ranged from a low of $5.6 million (in the Treasury Task Force), to a middle ground of $13 million (in an OMB study) and $16 million (in the Justice Task Force), to a high of $25 million (based upon an INS analysis). 30/ Given that substantial variation, along with concerns about the reliability and validity of stated savings, the Justice Task Force plea for a "best and final" economic analysis before proceeding with a permanent consolidation seems eminently reasonable. 31/

30/ Task Force Report on the Justice Department, p. 117-119; and Task Force Report on the Department of the Treasury, p. 92. It is worth noting that the follow-up CBO-GAO study of the Grace Commission proposals did not evaluate these specific recommendations. U.S. Congress. Congressional Budget Office and General Accounting Office. Analysis of the Grace Commission's Major Proposals for Cost Control. Washington, U.S. Govt. Print. Off., 1984.

31/ Task Force Report on the Department of Justice, p. 116.

Even though CCMA did not provide a cost-benefit analysis, certain types of costs and savings are comparatively easy to estimate. The Grace Commission Task Force on the Justice Department, for instance, considered among others such cost factors as the following: eliminating salary differentials between INS and Customs personnel; upgrading and extending cross-training of agents (to assume new inspection responsibilities); and accounting for "down time" of employees undergoing such training. 32/ These are quantifiable, based upon specific assumptions of the impact of a particular consolidation. GAO's 1979 report recognized that some airport remodeling would also be necessary for one-stop inspection but added another dimension to the expected savings from its recommended consolidation: i.e., other alternatives, such as preclearing passengers in foreign countries, are more costly. 33/

An argument could be made that cross-training Customs agents to assume INS duties, given Customs' considerably broader inspection responsibilities, would be easier, less time-consuming, and less costly than the reverse. In that case, the CCMA proposal, with INS as the primary inspector at all land ports of entry, would be more costly than retraining Customs inspectors where they already serve at land ports (i.e., where joint or dual INS-Customs primary inspection exists as opposed to where INS already serves as the exclusive primary inspector).

32/ Ibid.

33/ General Accounting Office, More Can Be Done To Speed the Entry of International Travelers, p. 7 and 23-24.

Impact on Other Agency Activities and Governmental Responsibilities

Other costs and benefits for any reorganization are not as easily computed. Those include the impact on the remainder of the agency and department, their statutory activities and duties, as well as other governmental responsibilities.

The CCMA proposal, for instance, assumes that societal savings, principally in the form of expedited inspection of international travelers and cargo entering at air and sea ports, justify a consolidation. Evidently, societal costs of the new proposal are considered to be negligible, if not non-existent. Based upon their own surveys, analyses, and interviews, the two GAO and two Grace Commission Task Force reports support this; a net benefit would be realized by a consolidation of port-of-entry inspection operations. 34/

A fundamental concern, however, can be raised about the impact of such a consolidation upon other activities and responsibilities that affect society, especially law enforcement efforts against illicit narcotics trafficking and smuggling of contraband. GAO found that in tests of one-stop inspection, the effect on law enforcement was "uncertain or non-existent," 35/ based upon its comparisons at test sites over time, which complemented its earlier comparisons with foreign government one-stop inspection practices. Comparing the United States efforts with any particular foreign government practices, however, may

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34/ General Accounting Office, More Can Be Done To Speed Entry of International Travelers, p. 15-16, and One-Stop Inspection Speeds the Entry of International Travelers, p. 2-3; Task Force Report on the Department of Justice, p. 106; and Task Force Report on the Department of the Treasury, p. 86. The Grace Commission Task Forces, however, did not explicitly considered any impact on other governmental responsibilities in estimating costs and savings.

35/ General Accounting Office, One-Stop Inspection Speeds the Entry of International Travelers, p. 3, and More Can Be Done To Speed the Entry of International Travelers, p. 11-12.

be questionable for a variety of reasons. There are important cross-national differences in illegal immigration, anti-smuggling, dutiable goods and assessments, and anti-narcotics laws and treaties that need to be enforced; in the public attitudes and values favoring or opposing what constitutes a criminal offense as well as certain enforcement efforts and practices; in the incidence of smuggling (not just reported or captured smugglers), based upon the perceived "marketability" of contraband in any country; in law enforcement organization and structure; and in the competency and intensiveness of inspection and other enforcement operations. 36/ Moreover, GAO's comparison of a six-month test of one-stop inspection—that "had an unclear effect on law enforcement" 37/—to previous efforts at the same port of entry may contain methodological weaknesses, because of the relatively brief time period involved and the absence of comparisons with other ports of entry. Nonetheless, it is the best available analysis of the only recent test of one-stop primary inspection.

Since at least the late 1960s, the Federal Government has emphasized drug interdiction. This activity has further increased under the Reagan Administration, with recently acquired surveillance and intelligence assistance from the military, establishment of regional task forces (following the South Florida experience), new organizational relationships within the Department of Justice, and

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36/ An impression of those differences which would affect such comparisons is found in: U.S. Library of Congress. Law Library. Narcotic Drugs, Including Cocaine—Laws of Various Countries. Washington, 1977; R. S. Lockwood. The United States Drug Problem and International Trafficking. The International Journal of Addictions, v. 12, 1977. p. 633-650; Cowan, Candace. Foreign Drug Laws and United States Citizens Abroad. In Drug Use in America. Washington, U.S. Govt. Print. Off., 1973. Appendix. v. III. The Legal System and Drug Control. p. 133-169; and, regarding an earlier period, Richard B. Craig. Operation Intercept: The International Politics of Pressure. Review of Politics, v. 42, 1980. p. 556-580.

37/ General Accounting Office, One-Stop Inspection System Speeds the Entry of International Travelers, p. 3.

substantially increased resources and funding. 38/ More recently, the Administration has also emphasized anti-terrorism, especially efforts against transnational and international terrorism and in conjunction with security at the summer 1984 Olympics in Los Angeles. An obvious concern is whether consolidated port-of-entry inspection and the transfer of a portion of Customs border patrol activity to INS will have an adverse impact on these heightened law enforcement priorities. A requirement for only one-stop primary inspection for international travelers and baggage and the accompanying reduction in the total number of inspectors, as proposed by CCMA, would arguably reduce or hamper U.S. anti-drug trafficking and anti-terrorism efforts.

Moreover, continued, albeit selective, budget reductions for Customs (but not INS) 39/ might place it in a position in which it can no longer effectively provide primary inspections as extensively as it does now. In that case, since Customs could not maintain its present level of services, Congress (and Customs)

38/ U.S. General Accounting Office. Federal Drug Interdiction Efforts Need Strong Central Oversight. GGD-83-52, June 13, 1983. Washington, 1983; and U.S. Congress. House. Committee on Government Operations. Interim Report on the War against Drug Smuggling. House Report No. 98-444, 98th Cong., 1st Sess. Washington, U.S. Govt. Print. Off., 1983.

The funding increases, according to GAO's analysis, have been principally directed to the U.S. Coast Guard. In fact, INS and Customs underwent early budget and personnel reductions that were cited by their officials and others as causes for reduced effectiveness or impaired and decreased services. U.S. Congress. House. Committee on Post Office and Civil Service. Subcommittee on Human Resources. Effects of Reduced Personnel in Customs Service and Immigration and Naturalization Service. Hearings, 97th Cong., 1st Sess. Washington, U.S. Govt. Print. Off., 1981. Moreover, the 1982 GAO study found inspector staffing levels were a critical and independent factor in waiting times for inspecting international passengers and baggage. General Accounting Office, One-Stop Inspection System Speeds the Entry of International Travelers, p. 4.

39/ In the Administration's FY 1985 budget, for example, Customs is slated for a loss of 1,000 employees and an estimated reduction of nearly $14 million for drug interdiction, while INS is scheduled for an increase of 1,000 positions. U.S. Office of Management and Budget. Budget of the United States Government, FY 1985. Washington, U.S. Govt. Print. Off., 1984. p. 5-144, 8-116, and 8-142.

might be presented with a fait accompli, and an accomodation, such as the CCMA proposal directs, would be necessary, whether or not Congress concurred with it.

Authority

The CCMA proposal does not specify the authority which would govern its proposal to transfer a portion of Customs border patrol activities to INS and to alter existing primary-inspection relationships between the two agencies. Whether the executive possesses existing discretionary authority or whether new legislation is needed appears to depend upon two main factors: first, whether the change constitutes an abolition or a transfer of a function between agencies in different departments; second, whether the primary inspector (from one of the agencies but representing both) is actually carrying out the statutory mandates and responsibilities of both Customs and INS alone (as opposed to sharing the responsibility).

A similar but not identical episode in 1974 sheds some light on the present situation. At that time OMB sanctioned a test of a single-agency management strategy, cross-designated INS agents as Customs agents, and prohibited Customs from patrolling the Mexican border. Subsequently, the Comptroller General and House Government Operations Committee questioned the propriety and legality of OMB's decision. The Committee concluded that if the arrangement had constituted a transfer or abolition of functions, then "neither the President nor the OMB, nor the departments individually or in concert, could order such action." 40/ However, the Comptroller General "was unable to make a clear-cut finding because of the tangled legal and factual issues involved." 41/ The cross-designation

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40/ House Government Operations Committee, Law Enforcement on the Southwest Border, p. 14.

41/ Ibid.

of INS agents was also troubling, even though the principle has been sanctioned in public law and by Federal courts. The Comptroller General determined that the "exercise of Customs' authority by INS agents must be considered as limited to the actions incident to their own primary mission of dealing with illegal alien traffic . . . and cross-designation of INS agents as Customs officers 'necessarily requires that Customs retain some responsibility for, and control of, their activities . . . .'" 42/

Other studies and proposals concerned with border management and port-of-entry inspection agree that congressional action is necessary for permanent transfers of jurisdiction and authority. The 1979 GAO report, for example, called for "legislation to make one agency responsible for inspections." 43/ Likewise, its 1982 study of one-stop inspection tests noted that they had been required by public law and were not purely administratively constructs. 44/ Moreover, the Grace Commission Task Force on the Treasury Department added that to accomplish its recommendation for consolidating port-of-entry inspection "OMB should also pursue and obtain Congressional approval for the transfer of authority." 45/ And its Justice Department counterpart, recognizing that certain initial improvements—e.g., cross-training, technological improvements, and short-term coordination—could be effected under existing Presidential authority, "complete consolidation will require Congressional action." 46/

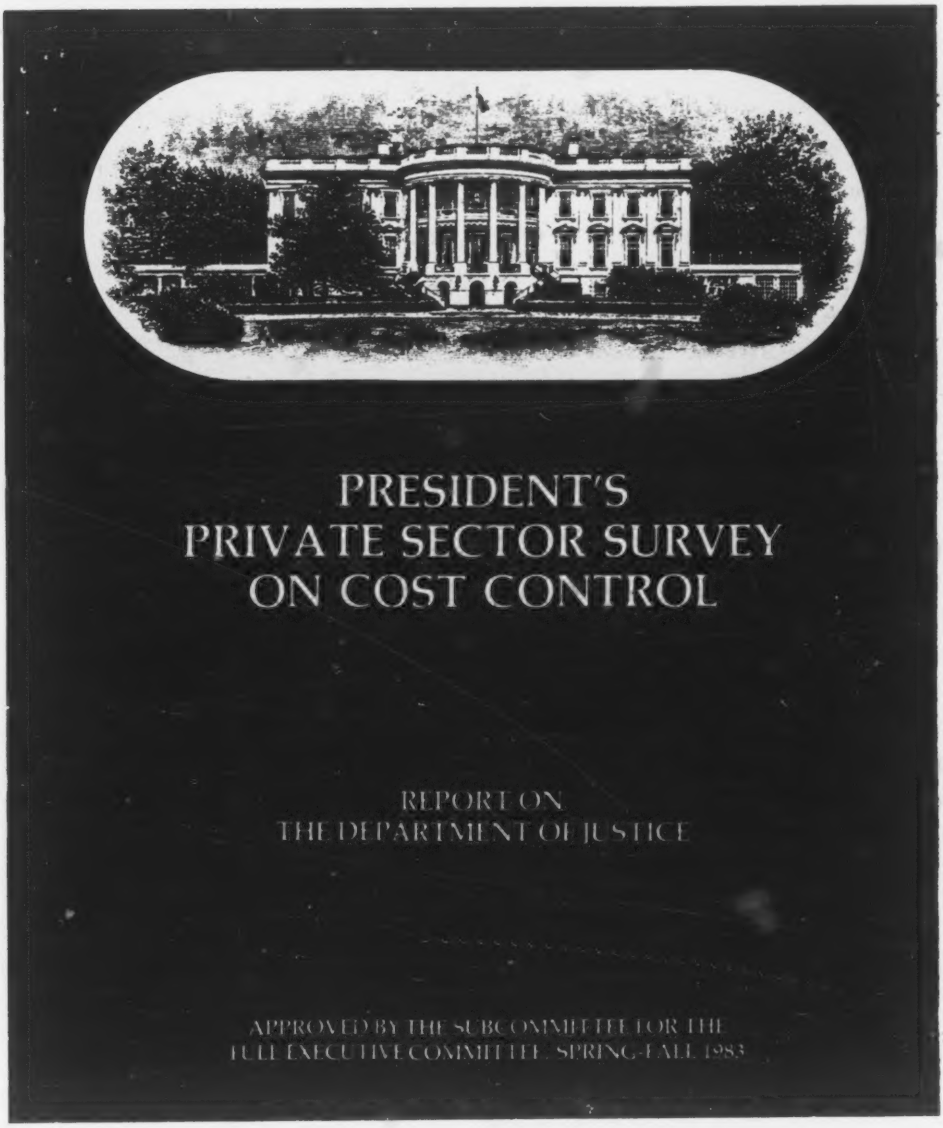
42/ Ibid., p. 14-15.

43/ General Accounting Office, More Can Be Done To Speed the Entry of International Travelers, p. iii. When that 1979 report was prepared, as GAO advised, presidential reorganization authority was available for the same purpose. That authority has since lapsed.

44/ General Accounting Office, One-Stop Inspection System Speeds the Entry of International Travelers, p. 1.

45/ Task Force Report on the Department of the Treasury, p. 92.

46/ Task Force Report on the Department of Justice, p. 119.



PRESIDENT'S PRIVATE SECTOR SURVEY ON COST CONTROL

REPORT ON
THE DEPARTMENT OF JUSTICE

APPROVED BY THE SUBCOMMITTEE FOR THE
FULL EXECUTIVE COMMITTEE, SPRING-FALL 1983

THE PRESIDENT'S PRIVATE SECTOR SURVEY ON COST CONTROL

August 31, 1983

The Honorable Ronald Reagan
President of the United States
The White House
Washington, D.C.

Dear Mr. President:

The following Report represents the results of the Department of Justice Task Force of the President's Private Sector Survey on Cost Control in the Federal Government. The Task Force was chaired by Weston R. Christopherson, Chairman and CEO, Jewel Companies, Inc.; Frederick Deane, Chairman and CEO, Bank of Virginia; Jewel S. Lafontant, Senior Partner, Lafontant, Wilkins, Jones and Ware; and Arthur Levitt, Jr., Chairman, American Stock Exchange, with Clarence S. Wilson, Jr., serving as Project Manager. The Report culminates the combined efforts of over 13 members of the Task Force, who devoted extensive pro bono work to the PPSSCC initiative. A list of all Task Force members is enclosed with this letter.

The Report on the Department of Justice contains major recommendations which, when fully implemented, could result in three-year cost savings and revenue generation of $850 million and three-year cash acceleration of $288 million. It should be noted, however, that some of the recommendations may require several years for the savings and revenue to be realized. While all facets of the Department of Justice could not be surveyed in the time allotted, areas selected for review were considered to offer significant potential for cost control and improved efficiency. The importance of the accompanying recommendations rests on the fact that they represent the potential for better utilizing finite resources available to the Federal Government.

Clearly, other opportunities for cost savings and revenue generation exist but, due to limited time and personnel resources, they could not be pursued. Several are suggested for further review because they offer future potential savings and revenue opportunities.

On behalf of the Co-chairs and the members of the Task Force, I would like to express our deep appreciation for the opportunity to have been of service to you and the members of your Administration.

Respectfully,

J. Peter Grace
Chairman, Executive Committee

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II. ISSUE AND RECOMMENDATION SUMMARIES (CONT'D)

A. DEPARTMENT OF JUSTICE (CONT'D)

JUSTICE 9: CONSOLIDATION OF PORT-OF-ENTRY INSPECTION SERVICES

Issue and Savings

Can the inspection services for passengers and goods entering the United States be consolidated or simplified to produce savings to the Government and increased convenience to travelers and shippers?

Combining inspection services under a single management structure would result in savings estimated to be, at a minimum, $11.0 million in the first year, $17.6 million in the second year, and $19.3 million in the third year, for cumulative three-year savings of $47.9 million.

Background

According to estimates by the Air Transport Association of America, 26 million air travelers entered the United States on more than 200,000 scheduled and charter aircraft during fiscal year 1982. About $3 billion in cargo entered the country that same year. Table II-24 summarizes information regarding passenger and cargo entry during the past eight years.

Entering passengers and cargo are inspected at their ports of entry by representatives of up to six Federal agencies. These include the:

- Immigration and Naturalization Service (INS) of the U.S. Department of Justice (DOJ);
- U.S. Customs Service (Customs) of the U.S. Department of the Treasury;
- Drug Enforcement Administration (DEA) of DOJ;

[Table II-24 on the following page]

- Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture;
- Fish and Wildlife Service of the U.S. Department of the Interior; and
- Center for Disease Control (CDC) of the U.S. Public Health Service (PHS), Department of Health and Human Services (HHS).

The preponderance of activity, however, is by INS and Customs.

Table II-24

PASSENGERS AND CARGO ENTERING THE UNITED STATES (FY 1975-1982)

FY	Passenger arrivals (millions)	Aircraft arrivals (thousands)	Cargo weight (millions of pounds)	Cargo value ($ millions)
1975	15.5	211.7	1,063	8,917
1976	16.5	215.9	1,212	10,920
1977	18.4	216.8	1,311	12,578
1978	21.6	261.1	1,506	17,923
1979	24.4	271.8	1,439	22,037
1980	25.8	262.6	1,344	28,044
1981	26.8	277.8	1,603	29,968
1982	26.0	259.8	1,688	30,933

Source: Compiled from data presented in Analysis of Federal Inspection Agency Management and Organizations, Air Transport Association, April 4, 1982.

Immigration and Naturalization Service -- the INS Inspections Division conducts inquiries of persons arriving at U.S. ports of entry to determine their admissibility to the United States. Table II-25, on the following page, displays border crossing and entry activity for FY 1981.

Table II-25

ENTRY TO THE U.S. -- FY 1981

Category	Number
Entering aliens	16,026,123
Entering U.S. citizens	11,352,222
Border-crossing aliens	176,509,582
Border-crossing U.S. citizens	112,930,144
Entering alien crewmen	2,972,595
Aliens refused admission	658,126

INS is responsible for administering the immigration and naturalization laws of the United States, and for ensuring that persons entering the United States are entitled to do so. As identified in a review conducted by the Air Transport Association,

> ...this entails such duties as determining the admissibility of aliens, examining entry documents, imposing fines, forwarding requests for asylum, prohibiting the departure of certain aliens, receiving arrival and departure manifests, detaining aliens for observations and examinations related to mental and physical defects, administering the deportation of excluded aliens, and seizing vehicles or aircraft believed to have been used in violation of the Immigration law.[1]

Source: 1981 Annual Report of the Immigration and Naturalization Service

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[1] Air Transport Association, Analysis of Federal Inspection Agency Management and Organization, April 4, 1983.

U.S. Customs Service -- Customs collects revenue from imports and enforces customs and related laws. Customs responsibilities include:

> ...assessing and collecting customs duties, excise taxes, fees, and penalties due on imported merchandise; interdicting and seizing contraband, including narcotics and illegal drugs; processing persons, carriers, cargo, and mail into and out of the United States; administering certain navigation laws; detecting and apprehending persons engaged in fraudulent practices designed to circumvent Customs and related laws; copyright, patent and trademark provisions; quotas; and marking requirements for imported merchandise.[2]

Methodology

The Task Force conducted interviews with senior INS representatives and reviewed relevant Congressional appropriation hearing records, INS analyses of consolidation dated December 9 and 15, 1982, and an examination of the problem by the Air Transport Association [3], upon which much of the Task Force's analysis is based.

Findings

General concern exists that separate inspecting agencies both inconvenience the traveler and shipper and unnecessarily cost the traveler, shipper and Government money.

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[2] General Services Administration, The United States Government Manual 1982/83.

[3] Air Transport Association, op. cit.

As part of the Office of Management and Budget (OMB) 1983 appropriation hearings, Congress expressed concern about "persistent delays in primary inspection (Customs, Immigrations, etc.) functions at United States airports and border inspection points, involving the efficient movement of people and cargo .... Accordingly, [Congress] ... urges the Office of Management and Budget to take the lead in this matter ... and move forward with a primary inspection consolidation plan."

As a result of the hearings, OMB did take the lead and proposed that inspection services be consolidated within Customs.

Even before the OMB action, however, others had identified problems in the inspection process. Among the agencies and organizations performing more than 30 studies of the port-of-entry inspections process were:

- the General Accounting Office (GAO);4/
- U.S. Chamber of Commerce;5/
- U.S. Bureau of the Budget;6/

4/ See the following GAO studies: More can be done to Speed Entry of International Travelers, 1979; Customs' Cargo Processing - Fewer But More Intensive Inspections are In Order, 1978; A Single Agency Needed to Manage Port of Entry Inspections - Particularly at U.S. Airports, 1973; Illegal Entry at United States-Mexico Border, Multiagency Enforcement Efforts Have Not Been Effective in Stemming the Flow of Drugs and People, 1977; and One-Stop Inspections Speed the Entry of International Travelers, 1982.

5/ Chamber of Commerce, Washington Report, December 7, 1982.

6/ U.S. Bureau of the Budget, Interagency Report on Inspection at Ports of Entry, 1968.

- Office of Drug Abuse Policy, Executivs Office of the President 7/ (an interagency study by DOJ and the Departments of Transportation and Treasury, including Customs, DEA, and INS);
- President's Reorganization Project;8/
- National Immigration and Naturalization Service Council of the American Federation of Government Employees;9/
- Air Transport Association of America;10/ and
- Airline Passengers Association.11/

The orientation of the organizations conducting these studies differs greatly. Some represent the Executive Branch and the President, others represent the Legislative Branch, and still others represent business, Federal employees, or travelers. The basic conclusion of these varied interest groups was identical, however. As it was expressed by a U.S. Department of Transportation Task Force empowered under the Airport and Airway Improvement Act of 1982 (P.L. 97-248):

> Federal Inspection Services at U.S. airports are a significant cause of groundside congestion and delay for international air passengers and shippers. [Federal Inspection Services] ... congestion and delay detrimentally impact international

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7/ Office of Drug Abuse Policy, Executive Office of the President, Border Management and Interdiction: An Interagency Review, 1977.

8/ President's Reorganization Project, Reorganization Options Related to Border Management, 1977.

9/ National Immigration and Naturalization Service Council, Managing Consolidated Border Enforcement Resources, 1977.

10/ Air Transport Association, op. cit.

11/ During interviews with the Task Force, the Association indicated concern over the problem and said that it had recently completed a study, but that documentation was not available.

> passenger and cargo facilitation, disrupt the ability of arriving international air passengers to make planned domestic flight connections, significantly affect the movement of urgent shipments in international commerce, and can affect the capacity of an airport to accommodate international traffic.12/

The dual inspection process is costly both to the Government and to travelers and shippers. Customs budgets $238.0 million for inspection services at ports of entry.13/ INS budgets $62.5 million.14/ There is likely some overlap in costs which could be saved through consolidation, through greater coordination of functions, by eliminating duplications in overhead (such as inspection space and information systems), and by realizing economies of scale.

GAO estimated that in 1982, delays in the inspection process at airports in two cities alone (New York and Miami) may have cost air travelers $26.2 million. Projecting these findings to all international travelers implies a cost of $80.0 million in 1982.

While the Task Force has not identified any quantitative estimates of the costs of inspection delays for shippers, those costs are apparent from analyses such as the following provided by the Air Transport Association:

> Shippers know that if their import shipments arrive after 5:00 p.m., or on a weekend, the cargo will often sit unprocessed until at least the next business day, and sometimes, days beyond that .... [The] advantages of being able to ship cargo and documents across the ocean in a matter of hours are greatly

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12/ Airport Access Task Force on Groundside Congestion, Report to Congress, March 10, 1983.

13/ President's 1984 Budget.

14/ DOJ 1984 Budget Estimates.

> diminished when the system of inspection and documentation can delay delivery for days. Such delay can also result in the uneconomical acquisitions of more holding facilities when cargo is not promply processed on a daily basis. Moreover, this warehousing of cargo greatly increases the potential for security problems.[15]

Workable solutions to the problem of delay have been proposed. After reviewing approximately 30 prior studies, the Air Transport Association identified four basic options identified over the past 15 years as potential solutions:

- Make no organizational changes, but improve inspection techniques and agency coordination; increase inspectors and resources.
- Establish a single management concept for inspection services. Possible structures include the:
    - Combination of Customs, INS, and APHIS and placement of the new agency in an existing Cabinet Department. Candidates include Treasury, Justice, and Agriculture, as well as Transportation and Commerce.
    - Combination of Customs, INS, and APHIS to create a new, independent agency, the United States Inspection Service.
    - Establishment of a private or quasi-governmental organization to perform the function of the inspection agencies under contract, as is currently done with passenger preboarding security inspections.
- Establish an Interagency Facilitation Board to coordinate agency activities centrally and to serve as a possible transition step to consolidation.
- Assign to one existing agency the responsibility for processing travelers and to another, the responsibility for processing cargo.

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[15] Air Transport Association, op. cit.

The definitive work on the best approach to consolidation has not been done, but may not be necessary. OMB recommended, for example, that inspection services be consolidated within Customs. Such a move, OMB claimed, would produce first-year savings of 333 positions or $13 million. INS refuted the analysis, its assumptions, and its conclusions and claimed that, alternatively, at least 600 positions (for an unspecified number of dollars) could be saved by consolidation within INS.

Regardless of the approach taken, however, the abundant evidence presented in the findings above indicates that consolidation anywhere will produce savings and will bring procedures into line with statute and with international agreements regarding the facilitation of international travel to which the United States subscribes.16/

Individual interests may interfere with the ability of the Executive Branch to make meaningful changes. Transferring the statutory responsibilities of one agency to another will require Congressional action, agency cooperation, and reductions in force (RIFs). Congressional committees which lose budget control and oversight responsibilities; agencies which suffer budget, staff, and responsibility reductions; and employees who lose jobs may be expected to resist the recommended improvements.

Nevertheless, the extent of the studies completed by Congress, the Executive Branch, civil service labor organizations, and the public, and the potential to accomplish many personnel reductions through attrition and transfer, suggest that now is the time to consolidate services.

16/ See, for example, Chicago Convention on International Civil Aviation, 61 Stat. 1180, 1186 (December 7, 1944).

Conclusions

Having separate agencies to perform independent port-of-entry inspections has resulted in duplication, overlap, and inefficient use of public and private resources. According to the Air Transport Association:

> Customs, INS and APHIS have separate inspection units which perform comparable duties, often in the same location, at the same time, employ similar enforcement techniques, and require similar support systems and airport facilities. The results are:
>
> - an outdated and cumbersome Federal inspection process;
> - duplication and overlap of agency functions;
> - separate and uncoordinated managers and management policies; and
> - excessive Federal overhead caused by such factors as duplicative facilities, investigatory tools, and supervisory personnel.[17]

The Task Force agrees with this assessment and believes that the Administration should take immediate action to remedy this situation.

The President's Private Sector Survey (PPSS) Treasury Task Force investigated the issue of improving the management of port-of-entry inspection services in reviewing customs (TREAS 8: U.S. Customs: Border Management) and reached essentially the same conclusions.

Consolidation of responsibilities within an existing Cabinet department is attractive. Creation of a new independent agency seems unnecessary. Use of private inspection services may be a good long-term solution, but should be implemented only after careful planning to avoid potential abuses. It is the Task Force's opinion that this planning could not be completed quickly enough to provide a workable solution now.

17/ Air Transport Association, op. cit.

The establishment of an Interagency Facilitation Board is a good idea, but it seems a stop-gap approach. While it has desirable attributes, it does not get at the cause of the problem, and it adds another layer of bureaucracy.

Splitting of responsibilities for passenger and cargo inspections between agencies is attractive on logical grounds and is worth pursuing. While a case could be made for Customs also providing immigration inspections of passengers, it is unlikely that INS would desire to, or should within its agency mandate, provide cargo inspections.

Recommendations

JUSTICE 9-1: OMB should assume responsibility for coordinating the activities of the various inspection services as a short-term solution.

JUSTICE 9-2: OMB should, either on its own or through one or more of the inspection services and the Department of State, promote the development of technological advances which will speed port-of-entry processing for passengers, including, for example:

- machine-readable forms, including passports, and
- common information systems for immigration and customs processing.

JUSTICE 9-3: The Administration should immediately upgrade and extend cross-training for all inspectors so that when consolidation is achieved, all inspectors will be prepared to perform their new duties.

JUSTICE 9-4: OMB should withdraw its previous proposal to transfer all inspection responsiblities to Customs. INS believes this proposal to be based upon incomplete analysis. OMB should take into account agency perspectives on the transfer of responsibilities in its economic analysis. The President should, therefore, request the Secretary of the Treasury and the Attorney General to submit within 60 days of the request a "best and final" economic analysis of two possible strategies:

- assignment of all inspection responsibilities to the U.S. Customs Service; or
- assignment of all arriving passenger and accompanied baggage inspection to INS, and all cargo and unaccompanied baggage inspection to Customs.

The analyses should be based upon identical assumptions which would be provided by OMB. These assumptions would include, but not necessarily be limited to:

- salary differential of inspectors at the two services;
- numbers of primary inspectors required;
- numbers and types of secondary inspectors required;
- inflation factors;
- phase-in schedules; and
- levels of training required.

The agencies would complete the analyses with information currently available only to them, such as the level of productivity of "down time" (that is, the extent to which other agency work is completed by inspectors when they are not inspecting).

Based upon the results of the analyses and their comparison and reanalysis by OMB, the President should propose a consolidation plan immediately.

Savings and Impact Analysis

OMB estimated that consolidation within Customs would result in personnel reductions of 333 full-time equivalents (FTEs) and a savings of $13 million in the first year.

INS estimated, on the other hand, that consolidation of responsibilities within INS would result in a reduction of 600 to 650 FTE personnel. INS does not place a dollar amount on savings, but applying the same $39,039 per position saving resulting from the OMB study yields an estimated savings of $23 to $25 million.

The OMB and INS analyses are incomplete and noncomparable when considered in terms of the study proposed in JUSTICE 9-4, above. However, they and the many studies discussed in the Findings section suggest that substantial savings are available to the Government, industry, and the public through consolidation. The Task Force's estimate of savings form this issue extends OMB's conservative analysis of savings from consolidation of responsibilities over a three-year period adding 10 percent per year for inflation. In addition, our analysis includes other savings from:18/

- eliminating the cost of maintaining duplicate space;
- eliminating administrative overhead and supervisory personnel costs as well as nonreimbursable overtime;
- improving processing time which would result in personnel savings;
- eliminating the cost of developing and maintaining independent automated data processing (ADP) systems;
- reducing the cost of producing, processing, and storing paperwork through the consolidation of customs and INS forms; and
- reducing the cost of office equipment and supplies.

The Task Force's estimate also includes a one-time implementation cost of $5.0 million.19/ These costs include:

- personnel re-training;
- enhancing or developing ADP systems;
- construction or facilities improvements; and
- costs associated with RIFs.

18/ Estimated by the PPSS Treasury Task Force, Issue TREAS 8.

19/ Ibid.

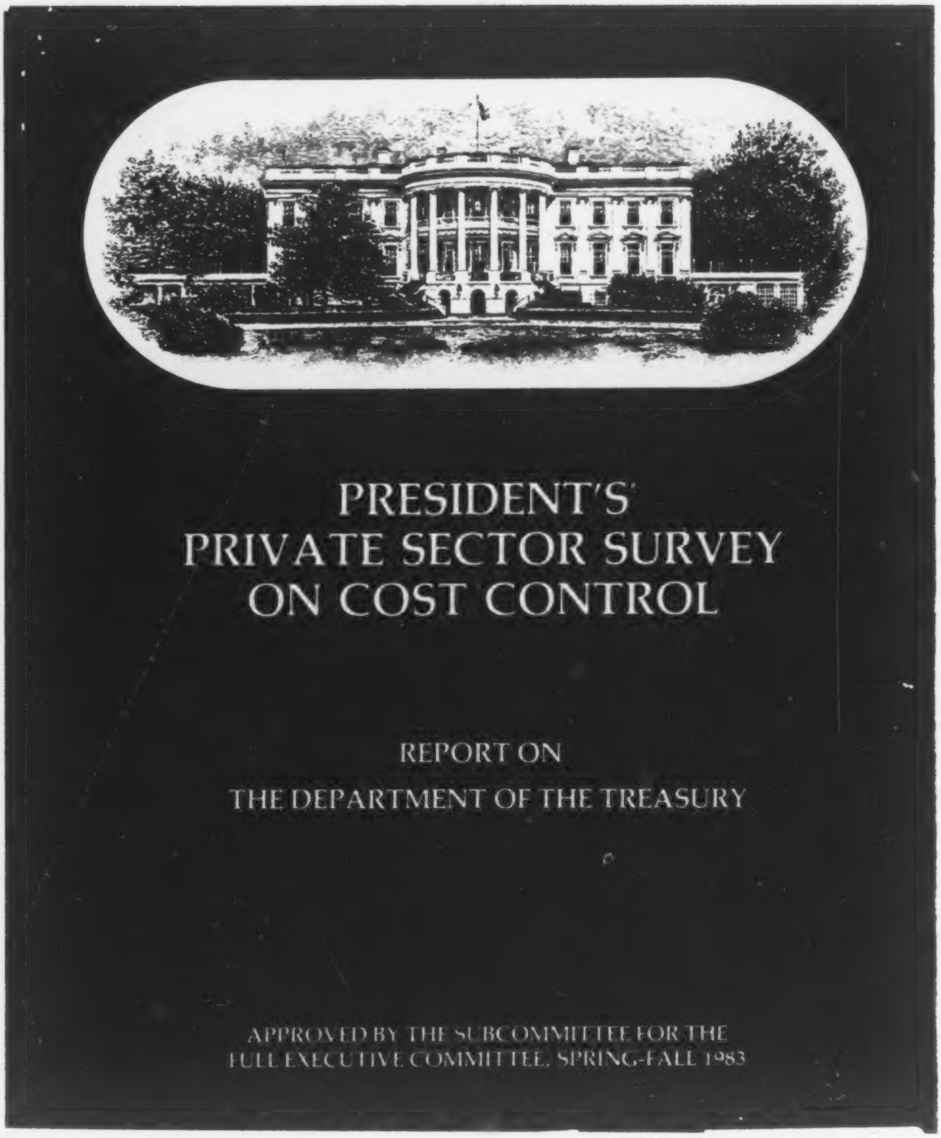
Estimated savings are as follows:

	($ millions) Year 1	 Year 2	 Year 3	Three-year savings total
Savings				
333 positions @ $39,039 per year	$13.0	$14.3	$15.7	$43.0
Other savings	3.0	3.3	3.6	9.9
Gross Savings	$16.0	$17.6	$19.3	$52.9
Costs				
Implementation cost (one-time)	(5.0)	--	--	(5.0)
Net Savings	$11.0	$17.6	$19.3	$47.9

These savings do not take into account increased revenues from improved enforcement resulting from a single management of inspection; and increased revenues from taxes on money saved to shippers and passengers.

Implementation

Initial improvements (JUSTICE 9-1, 9-2 and 9-3) could be completed under existing Presidential authority. Complete consolidation (JUSTICE 9-4) will require Congressional action.



PRESIDENT'S PRIVATE SECTOR SURVEY ON COST CONTROL

REPORT ON
THE DEPARTMENT OF THE TREASURY

APPROVED BY THE SUBCOMMITTEE FOR THE
FULL EXECUTIVE COMMITTEE, SPRING-FALL 1983

THE PRESIDENT'S PRIVATE SECTOR SURVEY ON COST CONTROL

August 31, 1983

The Honorable Ronald Reagan
Presient of the United States
The White House
Washington, D.C.

Dear Mr. President:

The following Report represents the results of the Department of the Treasury Task Force of the President's Private Sector Survey on Cost Control in the Federal Government. The Task Force was chaired by Alfred Brittain, III, Chairman of the Board, Bankers Trust Company; John H. Filer, Chairman and Chief Executive Officer, Aetna Life & Casualty Company; and William H. Donaldson, Chairman, Donaldson Enterprises, with Robert G. Maxon serving as Project Manager. The Report culminates the combined efforts of over 44 members of the Task Force, who devoted about 159 person-months of pro bono work to the PPSSCC initiative. A list of all Task Force members is enclosed with this letter.

The Report on the Department of the Treasury contains major recommendations which, when fully implemented, could result in three-year cost savings and revenue generation/acceleration of $11,527.5 million. It should be noted, however, that some of the recommendations may require several years for the savings and revenue to be realized. While all facets of the Department of the Treasury could not be surveyed in the time allotted, areas selected for review were considered to offer significant potential for cost control and improved efficiency. The importance of the accompanying recommendations rests on the fact that they represent the potential for better utilizing finite resources available to the Federal Government.

Clearly, other opportunities for cost savings and revenue generation exist but, due to limited time and personnel resources, they could not be pursued. Several are suggested for further review because they offer future potential savings and revenue opportunities.

On behalf of the Co-chairs and the members of the Task Force, I would like to express our deep appreciation for the opportunity to have been of service to you and the members of your Administration.

Respectfully,

Peter

J. Peter Grace
Chairman, Executive Committee

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B. ENFORCEMENT AND OPERATIONS

TREAS 8: U.S. CUSTOMS: BORDER MANAGEMENT

Issue and Savings

Would the consolidation of all border management functions into one agency result in lower costs and a more effective operation?

Estimated net savings of $13.5 million could be realized over three years if our recommendations to consolidate inspection services are implemented.

Background

Eight different agencies have a physical presence in border operations. The two primary ones are the U.S. Customs Service (Customs) in the Department of the Treasury and the Immigration and Naturalization Service (INS) in the Department of Justice. INS conducts inspections of persons entering the country to determine either citizenship or the admissibility of aliens. Customs inspects baggage and goods to collect duties on imported merchandise, combat the smuggling of prohibited or restricted articles, and halt the flow of dangerous drugs and narcotics. Customs is the Agency responsible for the enforcement of more than 400 laws and regulations of 40 different agencies representing seven cabinet departments. With a few minor exceptions, only Customs maintains a presence at all border points.

The volume of border activity has increased significantly in the last decade. The number of people entering the country has increased to approximately 330 million in 1982 from 225 million in 1970, a growth rate in excess of 3 percent annually. During this same period, imports have increased significantly as evidenced by a 12 percent annual growth in formal entries and by a 10 percent per year growth in revenue collections ($10 billion in 1982 compared to $3.3 billion in 1970). Furthermore, drug smuggling, particularly of cocaine and marijuana, has increased dramatically, as has the number of illegal aliens entering or attempting to enter the country.

In FY 1982, Customs and INS budgets provided for 24,262 employees and combined expenditures of $922 million (just over 9 percent of the revenue collections reflected in the FY 1982 Customs budget). The annual growth in these budgets since 1971 has been about 12 percent.

BORDER INSPECTION STAFF

	1971	1981	1982	1983
U.S. Customs				
All permanent positions	10,787	13,228	13,658	10,974
Inspectors only	3,035	4,379	4,374	3,696
% insp./total emp.	28.1%	33.1%	32.0%	33.7%
INS				
All permanent positions	7,230	10,886	10,604	10,661
Inspectors only	1,265	1,557	1,357	1,357
% insp./total emp.	17.5%	14.3%	12.8%	12.7%

Source: FY 1972 and 1983 Budgets

Note that although the INS staff has risen by 47 percent since 1971, its Inspection staff increases have totalled only 7 percent. Customs staff, however, has risen by only 2 percent, although its Inspection staff is up by 22 percent.

For many years, the multi-agency approach to border management has created serious coordination problems, duplication and overlap in activities, and ineffective solutions to border management problems. A contributing factor is the absence of a comprehensive border management policy that clearly defines the roles and responsibilities of the involved agencies.

Problems associated with fragmentation of border management and lack of policy direction are long-standing. Evidence can be found in numerous studies by Customs, the General Accounting Office (GAO), the Office of Management and Budget (OMB), Presidential Reorganization Project Teams and others (see Appendix bibliography). These studies have consistently highlighted Customs' and INS' divided responsibility for the inspection of people and baggage at ports of entry, as well as patrol functions between ports, and have described such problems as poor coordination, conflicting objectives, duplication of resources, and poor service to the public.

The predominant recommendation emanating from past studies is that some or all aspects of border management responsibility be placed with a single Federal agency. However, union resistance, opposition by INS, overly broad proposals, lack of coordination with Congress, and absence of White House commitment have prevented, individually or collectively, the adoption of any of the previously developed consolidation plans.

Methodology

The border management activity was evaluated by the Treasury task team through observation (field trips), interviews with key management and operating personnel, and analyses of budgets, performance reports, previous reorganization proposals, etc.

Note that an expanded discussion of the issue and more detail regarding sources of information and similar studies can be found in the Appendix.

Findings

Border management controversy is not new. Studies dating as far back as 34 years identify problems related to split responsibilities.

No stated policy exists. The absence of a comprehensive border management policy leads to conflicts and misunderstandings about the roles and responsibilities of many of the involved agencies, especially between Customs and INS.

Fragmentation of primary inspection -- The sharing of primary border inspection responsibilities by Customs and INS has brought about:

- Conflicting policies
  - Differing overtime pay policies
  - Differing position grades for similar work
- Planning and scheduling controversies
  - Less than optimum service
- Turf disputes, principally at headquarters
- The selection of two different unions by employees

- o Duplication of data processing systems
- o Duplication of supervision and facilities
- o Confusion on the part of the public

Inspectors (Customs and INS) are cross-trained. At ports of entry inspectors routinely cover for each other under certain circumstances and with the agreement of the two agencies.

Widespread support exists for the creation of a single border management agency. The creation of a single border management agency or some similar structure has been recommended in almost every study made since 1948.

Attempts to carry out a consolidation of border inspection functions have failed repeatedly. This has been due to opposition from unions, lack of coordination with Congress, and lack of White House commitment.

Attempts to carry out cooperative test programs of inspection techniques have often failed due to conflicting priorities of the Agencies. Both INS and Customs tend to distrust each other's motives and the objectives of the program; thus results are seldom acceptable to both.

The provisions of the 1911 and 1931 pay laws applicable to Customs and INS were probably not intended to result in a customs officer earning 40 percent of his/her salary through overtime pay (72 percent of which is recovered from the private sector), as was the case in 1981.

Conclusions

The Treasury task team concluded that the consolidation of responsibility for the primary inspection function at ports of entry would alleviate significantly the problems stated above. Such consolidation would eliminate the long-standing problems of fragmentation, overlap, and duplication. The placement of accountability with one agency would facilitate manpower planning and scheduling and, in turn, expedite primary processing. The roles and responsibilities of agencies other than Customs and INS would not change or be adversely affected by the consolidation.

Consolidation of the primary inspection function would improve public goodwill by accelerating the clearance of passengers and cargo while lowering the cost of the primary inspection function. Costs to the Government and the private sector could be further reduced by amending and consolidating the 1911 and 1931 pay laws applicable to Customs and INS.

The task team is convinced that the country would be better served by one single agency responsible for managing and controlling all aspects of the Nation's borders. However, in the absence of a comprehensive border management policy, the team feels that the consolidation of border management activities beyond the primary inspection function should not be implemented until a policy is in place.

Recommendations

TREAS 8-1: Place all responsibility for primary inspection functions currently performed at ports of entry into one agency. This transfer should be by way of a detailed implementation plan approved by OMB and Congress.

TREAS 8-2: Develop a comprehensive border management policy. The primary objective of the policy is to eliminate overlap and duplication in both the operating and support functions of the border management agencies.

TREAS 8-3: Amend the 1911 and 1931 pay laws for Customs and INS and consolidate them into one single border pay law. Bring the overtime pay provisions of the new law more into line with standard overtime rules in effect for most other Government agencies.

Savings and Impact Analysis

Past studies recommending consolidation of border management responsibility have reflected annual savings ranging from a few million dollars to over $300 million. There is no evidence that a detailed reorganization plan reflecting specific savings for each area of expected improvement was developed for any of the numerous recommendations submitted over the years. The Treasury task team was unable, in the time available, to develop a specific reorganization plan. However, the team concluded after reviewing prior studies and verifying savings opportunities with the current Customs organization that savings in the range of $5.6 million per year are attainable. The attendant staff reduction of 100 inspectors was derived from prior studies performed by the U.S. Customs, and represents a reduction of 2 percent in the current work force.

Other Savings -- Elimination of duplicated facilities and responsibilities would reduce personnel costs as well as affect the following:

- the cost of maintaining duplicate space;
- administrative overhead and supervisory personnel costs, as well as nonreimbursable overtime;
- processing time which would result in personnel savings;
- the cost of developing and maintaining independent automated data processing (ADP) systems;
- the cost of producing, processing, and storing paperwork through the consolidation of Customs and INS forms;
- the cost of office equipment and supplies.

Other Benefits

To the public:

- Facilitated and simplified processing at border entry points;
- 11 million fewer forms to be completed by aircraft travelers each year;
- More effective and efficient enforcement of all laws and regulations relating to border traffic.

To industry:

- A potential stimulus to the growing tourism industry through foreign travelers' perception of less red tape, especially at airports;
- Greater simplicity and convenience in dealing with Government policies and requirements via one agency;
- A reduction in Federal space requirements at airports, thus freeing facilities for income generating activities.

POTENTIAL ANNUAL SAVINGS
($ millions)

	Year 1	Year 2	Year 3	TOTAL
Savings				
100 inspectors @ $23,000 per year plus $2,500* per year in overtime	$2.6	$2.9	$3.1	$ 8.6
Other savings	3.0	3.3	3.6	9.9
	$5.6	$6.2	$6.7	$18.5
Costs				
One-time implementation costs estimated by Task Force	(5.0)	--	--	(5.0)
Net savings	$0.6	$6.2	$6.7	$13.5

---

* 1981 figures, excluding that portion of overtime recovered from the private sector which totalled $36 million or 72 percent of total overtime paid. See Appendix for more detail.

Note: A 10 percent annual inflation factor is assumed.

Implementation

TREAS 8-1: An implementation plan should be developed by the agencies. In the development of such an implementation plan, we suggest that OMB assume a strong coordinating role to encourage Customs and INS to address issues that could inhibit the consolidation effort. OMB should also pursue and obtain Congressional approval for the transfer of authority.

Having obtained the necessary approval, OMB should supervise the realization of the implementation plan to ensure a smooth and timely transition.

TREAS 8-2: The White House Office of Policy Management, with assistance from the Agencies involved, should develop a comprehensive border management policy. This policy development activity should include a thorough analysis of border patrol, investigation, and inspection activities by both Agencies. The task team anticipates that, as roles and responsibilities are defined, further opportunities for consolidation of border management functions will be identified.

TREAS 8-3: The amending of INS and Customs pay laws can be realized through Congressional authority and Executive implementation.

Additional Information

The Department of Justice Task Force also examined the overlap between Customs and INS and reached a similar conclusion -- substantial savings would result from consolidation of all border management functions into one agency (see DOJ 9). However, estimated savings vary between the Department of Justice Task Force report and this report due to differing assumptions and methodologies.

BY THE COMPTROLLER GENERAL

Report To The Chairman, Senate Committee On Governmental Affairs

OF THE UNITED STATES

Compendium Of GAO's Views On The Cost Saving Proposals Of The Grace Commission

Vol. II - Individual Issue Analyses

GAO/OCG-85-1
FEBRUARY 19, 1985

TREAS 8: U.S. CUSTOMS: BORDER MANAGEMENT

I. PPSSCC ISSUE AND SAVINGS

Would the consolidation of all border management functions into one agency result in lower costs and a more effective operation?

PPSSCC estimated net savings of $13.5 million could be realized over 3 years if the PPSSCC recommendation to consolidate inspection services is implemented.

II. GAO ANALYSIS OF ISSUE AND ASSOCIATED RECOMMENDATIONS

The PPSSCC proposal is not new and has been the subject of various proposals by the executive branch. GAO agrees with the PPSSCC recommendations that (1) the administration develop a comprehensive border management policy and (2) all responsibility for primary inspection functions currently performed at ports of entry be placed into one agency. GAO has reported on the need for a comprehensive operational plan for border control and single-agency management in the past and has made recommendations similar to these by the PPSSCC.

GAO also concurs with the PPSSCC recommendation to amend the 1911 and 1931 pay laws for Customs and the Immigration and Naturalization Service (INS). At issue is the efforts to bring the overtime, Sunday, and holiday compensation for INS and Customs inspectors more into line with other federal employees. GAO has recommended that legislation should be considered to provide that the overtime, Sunday, and holiday pay of inspectors at ports of entry be determined in accordance with the Federal Employees Pay Act of 1945, as amended, with some modifications.

III. GAO ASSESSMENT OF IMPLEMENTATION AUTHORITY, FEASIBILITY, AND STATUS

The Department of the Treasury acknowledged the issue concerning the consolidation of border management functions. The latest proposal for border inspection consolidation was approved by the Cabinet Council on Management and Administration and, subsequently, by the President on January 5, 1984. Under the proposal, Customs would assume responsibility for all airport and seaport passenger primary processing. INS would be responsible for all land ports and patrol functions between the land ports of entry. Congressional approval has not been obtained to implement this proposal. GAO agrees with the PPSSCC that congressional approval is needed for the transfer of authority.

Proposed legislation to amend the 1911 and 1931 pay laws has been submitted to Congress by Treasury and the Department of Justice. No action was taken during the 98th Congress.

IV. GAO ANALYSIS OF SAVINGS ESTIMATE

GAO has no basis for an opinion on the PPSSCC estimated cost savings associated with its proposal to consolidate inspection services. Customs, however, believes the savings may be greater than estimated by the PPSSCC. The PPSSCC did not estimate savings for its proposal to amend the 1911 and 1931 pay laws for Customs and INS.

V. RELEVANT GAO REPORTS

GAO/GGD-85-5	Observations On Overtime, Sunday, And Holiday Compensation For The U.S. Customs Service, Immigration And Naturalization Service, And The Animal And Plant Health Inspection Service Inspectors (Oct. 16, 1984)
GAO/GGD-78-17	Illegal Entry At United States-Mexico Border--Multiagency Enforcement Efforts Have Not Been Effective In Stemming The Flow Of Drugs And People (Dec. 2, 1977)
GAO/GGD-74-91	Premium Pay For Federal Inspectors At U.S. Ports-Of-Entry (Feb. 14, 1975)
GAO/B-114898	A Single Agency Needed To Manage Port-Of-Entry Inspections--Particularly At U.S. Airports (May 30, 1973)

VI. GAO CONTACT

Arnold Jones 275-8389

JUST 9: CONSOLIDATION OF PORT-OF-ENTRY INSPECTION SERVICE

I. PPSSCC ISSUE AND SAVINGS

"Can the inspection services for passengers and goods entering the United States be consolidated or simplified to produce savings to the Government and increased convenience to travelers and shippers?"

The PPSSCC estimated the 3-year savings to be $47.9 million: $11.0 million in the first year, $17.6 million in the second year, and $19.3 million in the third year.

II. GAO ANALYSIS OF ISSUE AND ASSOCIATED RECOMMENDATIONS

Over the years, GAO and others have studied the issue of simplified border management and have proposed the consolidation of border operations. GAO has supported the need for consolidated border management in prior reports, and GAO believes that the proposed actions would result in more efficient operations and cost savings.

III. GAO ASSESSMENT OF IMPLEMENTATION AUTHORITY, FEASIBILITY, AND STATUS

The PPSSCC stated that initial improvements could be completed under existing Presidential authority, but that complete consolidation would require congressional action. GAO agrees. In this connection, a proposal adopted by the Cabinet Council on Management and Administration, and subsequently approved by the President on Janaury 5, 1984, provides that Customs would assume responsibility for primary processing of all airport and seaport passengers. The Immigration and Naturalization Service would be responsible for all land patrol functions between the land ports-of-entry.

The PPSSCC's work on this issue occurred prior to the cabinet council's proposal. This proposal, if implemented, would simplify inspection services.

IV. GAO ANALYSIS OF SAVINGS ESTIMATE

Estimated savings by consolidating positions may well occur, but GAO is not in a position to attest to the magnitude of these savings.

V. RELEVANT GAO REPORTS

GAO/GGD-78-17	Illegal Entry at United States-Mexico Border--Multiagency Enforcement Efforts Have Not Been Effective in Stemming the Flow of Drugs and People (Dec. 2, 1977)

GAO/B-114898 A Single Agency Needed to Manage Port-of-Entry Inspections--Particularly at U.S. Airports (May 30, 1973)

VI. GAO CONTACT

Arnold Jones 275-8389

Senate

THURSDAY, JUNE 26, 1986

(Legislative day of Monday, June 23, 1986)

ORDER OF PROCEDURE

(At this point Mr. DeConcini, Mr. Roth, and Mr. Humphrey were recognized.)

GRACE COMMISSION LEGISLATIVE PACKAGE

Mr. DeCONCINI. Mr. President, last Tuesday was an important and historic day in the Senate as we passed perhaps the most dramatic tax reform bill in the past two decades. Today I am honored to be standing on the Senate floor with two of my distinguished colleagues to lay before the Senate a package of legislative proposals that could also make a significant, long-term contribution to the way the Federal Government does business.

Today Senator William Roth, chairman to the Senate Governmental Affairs Committee has joined Senator Gordon Humphrey and me, as cochairmen of the Senate Grace Caucus, in introducing a total of 15 bills that, if adopted, will put into effect many of the recommendations contained in the President's Private Sector Survey on Cost Control, or "The Grace Commission Report."

On this same day, in the House of Representatives, the two cochairmen of the House Grace Caucus, Congressman Beau Boulter of Texas and Congressman Buddy Roemer of Louisiana, are introducing virtually the same package of bills as part of a bipartisan, House-Senate "Grace Commission Day."

Mr. President, let me say at the outset that some of the bills that will be introduced today will be controversial.

Some of them will mean major changes in the way Uncle Sam does its business; manages its programs; and obligates the taxpayers' scarce resources.

Frankly, I do not support several of the 15 bills that will be introduced and sponsored by my distinguished colleagues here on Grace Commission Day. Other caucus members will likewise not be in a position to sponsor each and every one of the bills that are introduced today.

Other caucus members will have similar feelings of support. They will support some but not all of them. But it is a move in the right direction.

However, that should not diminish nor detract from the significance of this day in the House and Senate as we put onto Congress' legislative platter a package of legislation that could save the American taxpayers at least $20.2 billion over the next 3 years.

Nor should my colleagues interpret reservations about some of these bills as diluting the common, united purpose of the House and Senate Grace Caucuses to put as many of the Grace Commission recommendations as possible before the Congress over the next several years.

Mr. President, the Grace Commission study was perhaps the most comprehensive evaluation of Government programs ever attempted in the history of this Nation.

It provided over 2,400 substantive recommendations on how we can save the beleaguered American taxpayers hundreds of billions of tax dollars; streamline Government operations, programs, and activities; and eliminate waste, fraud, and abuse.

We owe it to the American taxpayers to save the Grace Commission study from the proverbial "dusty shelf" and put as many of the Grace recommendations into effect as is practical.

And let there be no misunderstanding among my Senate colleagues.

As cochairman and cofounder of the Senate Grace Caucus, I am committed to working with my distinguished caucus cochairman and founder, Senator Humphrey, and the other 26 members of the Senate Grace Caucus, to move major elements of the Grace Commission proposals through Congress.

☐ 1950

Mr. President, the Senate Grace Caucus, in concert with the Senate Governmental Affairs Committee, is taking a major first step today in the war on waste in Government. Now it is up to the Legislative and Appropriations Committees in the House and Senate to pick up the Grace Commission ball and run with it. I hope that they will accept the challenge and act promptly on this package of legislation that is being introduced today, Grace Commission Day, June 26, 1986.

Mr. President, I ask unanimous consent that I be allowed to speak briefly as if in morning business for the purpose of introducing what I consider to be perhaps the most important of the 15 Grace Commission Day bills, the Federal Credit Management and Debt Collection Improvements Act of 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DeCONCINI. Mr. President, I am today introducing a bill entitled the "Federal Credit Management and Debt Collection Improvement Act of 1986, June 26, 1986"—Grace Commission Day.

Mr. President, this bill deals with over $60 billion of outstanding debt but primarily with more than $24 billion of nontax debt that is owed the U.S. Government. A lot of Americans do not realize the significance of this huge delinquency balance. Roughly $35 billion of it is delinquent income taxes. The legislation that I have sent to the desk attacks the nonincome tax delinquencies.

It is hard to believe that so many Americans can be working and banking some of their paycheck and not paying their debt owed to the Federal Government. This bill will correct that, Mr. President.

Mr. President, the cosponsors of this legislation are myself, Senator Humphrey, Senator Roth, Senator Chiles, Senator Bradley, Senator Nunn, Senator Helms, Senator Proxmire, Senator Goldwater, Senator Wilson, and Senator Zorinsky.

Mr. President, the bill that I am introducing today is perhaps the most comprehensive revision of our Debt Collection Act of 1982—a law that I sponsored along with our former colleague, Senator Percy of Illinois.

The bill that I am introducing today—the Federal Credit Management and Debt Collection Improvement Act of 1986—is a compilation of the best features of two other pending debt collection bills introduced in the House by Congressman John Kasich of Ohio, and in the Senate by Senator Roth, plus the legislative recommendation of the General Accounting Office following their comprehensive review, conducted at my request, of agency efforts to implement the Debt Collection Act of 1982 and improve debt collection Governmentwide.

Perhaps the cornerstone of this bill is the establishment of specific nontax debt collection targets for the Government as a whole and a mechanism for setting debt collection targets for the individual agencies and Departments with debt collection balances.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

ense is to encourage the consolidation of base support operations in places where there are 2 or more installations in 50 mile radius of one another.

Sec. 304. Responsibilities of the Secretary of Defense.—The Secretary of Defense is required to carry out a test program for base support operations consolidations; to identify other bases where consolidations could be feasible, while determining whether contracting to the private sector would be cost effective; and to develop a plan for carrying out the base support consolidations within five years of their identification.

The Secretary of Defense is required to establish a timetable for consolidation, within 2 years of enactment, those consolidations already identified before the date of enactment.

Each plan for consolidation is to include milestones for budget reductions by month and by year, and assign responsibility for implementation. The Secretary of Defense is required to submit to Congress, as part of the budget request, the value of those base operations' costs contracted out and a summary of planned actions for cost reductions and to consolidate base support operations.

TITLE VI—UNIFICATION OF TRAFFIC MANAGEMENT

Sec. 401. Purpose.—The purpose of this title is to improve the economy and efficiency of the Department of Defense's management of air, land, and sea transportation through the establishment of a single, unified Defense traffic management command.

Sec. 42. Requirement to Establish a Traffic Management Command.—The Secretary of Defense is required to establish a unified traffic management command over all traffic management functions currently assigned to the Military Traffic Command, the Military Sealift Command, and the Military Airlift Command, within 1 year of enactment.

Within 180 days of enactment, the Secretary is required to develop a plan and submit it to the Senate and House Armed Services Committees to establish such a unified command.

Sec. 403. Repeal of a Prohibition Relating to Consolidation of the Military Transportation Commands.—Section 1110 of the Department of Defense Authorization Act, 1983 (Public Law 97-252; 96 Stat. 747), which presently prohibits the establishment of a unified traffic management command, is repealed.

S. 2625

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Health Care Auditing and Quality Control Improvement Act of 1986".

PURPOSE

Sec. 2. In order to strengthen oversight and quality control and to reduce administrative costs associated with the Medicare and Medicaid programs, this legislation—

(1) authorizes the Secretary of Health and Human Services to test and measure the cost effectiveness of using contractors to perform medicare audits; and

(2) requires the Secretary of Health and Human Services to develop procedures and guidelines for the medicaid quality control program.

MEDICARE AUDITING AND MEDICAL REVIEW

Sec. 3. (a) Section 402(a)(1) of the Social Security Amendments of 1967 (42 U.S.C. 1395-1(a)(1))) is amended—

(1) by striking out "and" at the end of subparagraph (J);

(2) by striking out the period at the end of subparagraph (K) and inserting in lieu thereof "; and"; and

(3) by inserting after subparagraph (K) the following new subparagraph:

"(L) to test and measure the cost effectiveness of audit and medical review under title XVIII of the Social Security Act performed by contractors other than the fiscal intermediaries and carries claims under parts A and B of such title.".

(b) The Secretary of Health and Human Services, in order to improve the administration of the Medicare program under title XVIII of the Social Security Act, shall, not later than one year after the date of the enactment of this Act, prepare and report to the Congress a recommendation of the optimum level and type of audit expenditures for the Medicare program, taking into account the results of tests conducted pursuant to section 402(a)(1)(L) of the Social Security Amendments of 1967.

MEDICAID QUALITY CONTROL

Sec. 4. (a) The Secretary of Health and Human Services, in order to improve the quality control program under title XIX of the Social Security Act, shall undertake a thorough review of the program's sampling design, data collection, and reporting requirements. The review shall also address corrective action and the time lapse between case eligibility identification and the determination of the dollar amount of services erroneously provided. Based on such review, the Secretary shall, not later than one year after the date of the enactment of this Act, develop procedures and guidelines for plans. Such procedures and guidelines shall, as a minimum, require the States to have in place (1) management information systems to prevent and detect errors and (2) corrective action plans meeting Federal standards.

(b) Notwithstanding section 1903(u) of the Social Security Act (42 U.S.C. 1396(u)) or any other provision of law, if a State does not conform to the Federal procedures and guidelines for the corrective action or for its quality control program, the Secretary shall reduce Federal reimbursement for State administrative costs under section 1903 of the Social Security Act by 5 percent for each quarter of State noncompliance.

Federal Health Care Auditing and Quality Control Improvement Act of 1986

A Bill to Implement Certain Recommendations of the President's Private Sector Survey On Cost Control

Sec. 2. Purpose.—To strengthen health care oversight and quality control and reduce administrative costs, the Act authorizes the Secretary of Health and Human Services to test and measure the cost effectiveness of contracting for Medicare audits; and requires the Secretary to develop procedures for a Medicaid quality control program.

Sec. 3. Medicare Auditing and Medical Review.—Section 402(a) of the Social Security Amendments of 1967 (42 United States Code 1395b-1(a)(1)) is amended to authorize the Secretary of Health and Human Services to test and measure the cost effectiveness of using contractors to perform Medicare audits.

The Secretary is required, within 12 months of the enactment of the Act, to recommend to the Congress the optimum level and type of audit expenditures for the Medicare Program taking into account the results of the test of using contractors.

Sec. 4. Medicaid Quality Control.—The Secretary of Health and Human Services is required to undertake a thorough review of the Medicaid quality control program, and within 1 year of enactment, to develop procedures and guidelines for the program. As a minimum, the States will be required to have in place management information systems to prevent and detect errors and to develop corrective action plans that meet Federal standards.

The Secretary is required to reduce the Federal reimbursement for State administrative costs by 5 percent for each quarter of non-compliance.

Problems: (1) Past audits of Medicare expenditures have revealed large volumes of paid claims that were not legitimate. Consequently, audits and related medical reviews are expected to yield a high return on investment (7-to-1 according to a GAO estimate). (2) Quality control improvements are needed to reduce error rates in program payments for Medicaid. The Grace Commission estimated a 3-year cost savings for Medicare auditing of $447 million. GAO estimated savings of approximately $315 million over 3 years. No estimate of quality control improvements in the Medicaid program was made.

The Purpose of this bill is to strengthen oversight and quality control and to reduce administrative costs associated with the Medicare and Medicaid programs by:

Authorizing the Secretary of Health and Human Services to test and measure the cost effectiveness of using contractors to perform Medicare audits and;

Requiring the Secretary of Health and Human Services to develop procedures and guidelines for the Medicaid quality control program.

S. 2626

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Border Management Consolidation and Improvement Act of 1986".

PURPOSE

Sec. 2. In order to strengthen law enforcement at United States borders and ports of entry and to reduce costs of border management, this Act—

(1) requires the consolidation of border management functions presently carried out by the United States Customs Service and the Immigration and Naturalization Service;

(2) requires the development of a comprehensive border management policy to eliminate overlap and duplication in the associated operating and support functions; and

(3) changes overtime laws for the United States Customs Service, Immigration and Naturalization Service, and Animal and Plant Health Inspection Service employees in accordance with the Federal Employee Pay Act to bring these employees pay entitlement in line with overtime pay provisions of other Federal employees.

TITLE I—BORDER MANAGEMENT CONSOLIDATION

Sec. 101. (a) The Director of the Office of Management and Budget, in consultation with the Assistant to the President for Policy Development, the Secretary of the Treasury, the Attorney General, and the head of any other concerned agency, shall develop and submit to the Congress by no later than the date that is 180 days after the date of enactment of this Act, a plan which—

(1) provides for the consolidation of the primary inspection functions performed by the United States Customs Service and the Immigration and Naturalization Service at the borders of the United States and at ports of entry into the United States; and

(2) sets forth a comprehensive border management policy to eliminate overlap and duplication in the operating and support functions of all Federal agencies that carry out activities at borders and ports of entry into the United States, that shall address, among other issues—

(A) the consolidation or elimination of paperwork,

(B) the reduction of burdens placed on travelers and businesses,

(C) the reduction of space requirements of such Federal agencies,

(D) the sharing of facilities and equipment by such Federal agencies, and

(E) the cross-training of inspectors.

(b)(1) The Director of the Office of Management and Budget shall begin implementation of the plan developed under subsection (a) on the date that is 60 days after the date on which such plan is submitted to the Congress. Implementation of such plan shall be completed by no later than the date that is 1 year after the date on which such plan is submitted to the Congress.

(2) Notwithstanding paragraph (1), the plan submitted to the Congress under subsection (a) shall not be implemented if a joint resolution described in paragraph (3) is enacted into law before the date that is 60 days after the date on which such plan is submitted to the Congress.

(3) The joint resolution referred to in paragraph (2) is a joint resolution of either House of the Congress the matter after the resolving clause of which is as follows: "That the plan submitted to Congress under section 101(a) of the Border Management Consolidation and Improvement Act of 1986 is disapproved and shall not be implemented.".

(4) Any joint resolution described in paragraph (3) which is introduced in either, or both, Houses of Congress—

(A) shall be jointly referred to the appropriate committees, and

(B) shall be considered to be a resolution described in section 152(a)(1) of the Trade Act of 1974 (19 U.S.C. 2192(a)(1)) for purposes of applying subsections (c), (d), (e), and (f) of section 152 of the Trade Act of 1974.

(5) The 60-day period described in paragraphs (1) and (2) shall be computed without regard to—

(A) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

(B) any Saturday and Sunday, not excluded under clause (A), when either House of Congress is not in session.

TITLE II—EMPLOYEE OVERTIME COMPENSATION AND REIMBURSEMENT

UNITED STATES CUSTOMS SERVICE

SEC. 201. (a) Section 5 of the Act of February 13, 1911 (36 Stat. 901; 19 U.S.C. 261, 267) and section 2 of the Act of June 3, 1944 (19 U.S.C. 1451a) are hereby repealed.

(b) Section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) is amended to read as follows:

"SEC. 451. INSPECTIONAL SERVICES.

"(a) COMPENSATION.—

"(1) INSPECTIONAL SERVICES.—The provisions of this section shall apply to services rendered in connection with—

"(A) the boarding of aircraft, vessels, or vehicles,

"(B) the lading or unlading of cargo,

"(C) the lading of cargo or merchandise for—

"(i) transportation in bond,

"(ii) exportation in bond, or

"(iii) exportation with benefit of drawback,

"(D) the receiving or delivery of cargo on or from the wharf or airport, or

"(E) the examination of passengers' baggage arriving in, or departing from, the United States by water, land, or air.

"(2) OVERTIME.—

"(A) IN GENERAL.—For purposes of this section, the term 'overtime' means hours of work officially ordered or approved in excess of—

"(i) 40 hours in an administrative workweek, or

"(ii) 8 hours per day.

"(B) SUNDAYS AND HOLIDAYS.—Regularly scheduled work on Sundays and holidays shall not be considered overtime and shall be compensated at a rate of pay equal to 1.25 percent of the hourly rate of basic pay of the employee. Work performed as overtime (as defined in subparagraph (A)) on Sundays and holidays shall be compensated as provided in paragraph (3).

"(3) RATES OF COMPENSATION.—Any employee of the United States Customs Service who is required to perform any of the services described in paragraph (1) as overtime shall be compensated for those services as follows:

"(A) Such services performed as overtime shall be compensated at a rate of pay equal to 1.5 percent of the hourly rate of basic pay of the employee, and shall be calculated and paid in 15-minute increments.

"(B)(i) For services performed as overtime that are part of any assignment which begins more than 2 hours before or after a regularly scheduled or previous overtime assignment, an employee shall receive—

"(I) 2 hours of overtime pay for any work up to 2 hours in duration, and

"(II) overtime pay for actual time worked for any work greater than 2 hours, calculated in 15-minute increments.

"(ii) An employee receiving overtime pay under this subparagraph shall receive 2 hours overtime pay in addition to any other overtime pay provided under this paragraph.

"(iii) For services performed as overtime that are part of any assignment which begins within 2 hours before or after a regularly scheduled or previous overtime assignment, the amount of overtime earned shall be calculated as if the employee had worked continuously to the beginning, or from the end, of the regularly scheduled or previous overtime assignments.

"(4) LIMITATION.—Compensation provided under this section, other than that attributable to the hourly rate of basic pay, shall not be paid if payment would cause an employee's aggregate pay during any fiscal year to exceed the maximum rate of pay for GS-15 under section 5332 of title 5, United States Code.

"(5) EXCLUSIVITY OF THIS SECTION.—Compensation shall be paid for the services described in paragraph (1)—

"(A) solely in accordance with the provisions of—

"(i) this section, and

"(ii) to the extent not covered by this section, the applicable provisions of title 5, United States Code; and

"(B) without regard to the provisions of section 207 of title 29, United States Code; except that compensation provided under this section shall be in addition to, and not affected by, any holiday pay or premium pay for nighttime work authorized by law.

"(b) REIMBURSEMENT OF COMPENSATION.—

"(1) IN GENERAL.—Except as provided in section 53 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1741), the master, owner, agent, or consignee of any aircraft, vessel, vehicle, or merchandise who has requested or required the rendering of any services described in subsection (a)(1) shall reimburse the Department of the Treasury for—

"(A) all overtime payable under subsection (a)(3), and

"(B) all amounts paid under subsection (a)(2)(B) in excess of the basic pay,

which are paid in connection with such services. If a customs officer reports for duty to render such services, such reimbursement shall be required regardless of whether the inspection or examination actually takes place.

"(2) PROCEDURES.—Before granting any special license under section 450 or 452, and before accepting any application from a consignee of merchandise for the rendering of services described in subsection (a)(1) on a Sunday or holiday or at any time that would require customs officers to provide such services as overtime, an amount of money which is sufficient to pay the compensation and expenses of the customs officers and employees assigned to provide such services shall be deposited or a bond for such amount shall be posted. In lieu of such deposit or bond, the owner or agent of any aircraft, vessel, vehicle, or line of aircraft, vessels, or vehicles may execute a bond, in an amount to be fixed by the Secretary of the Treasury, to cover such compensation and expenses (including the costs of issuing such special licenses) for the unlading or lading of such aircraft, vessels, or vehicles for a period not to exceed one year.

"(3) EXCEPTIONS.—The provisions of this subsection shall not apply to—

"(A) the owner, operator, or agent of a highway vehicle, bridge, tunnel, or ferry, between the United States and Canada or between the United States and Mexico, or

"(B) the lading or unlading of merchandise, baggage, or persons arriving in, or departing from, the United States by motor vehicle, trolley car, on foot, or by other means of travel upon, over, or through any highway, bridge, tunnel, or ferry.

"(4) FERRY.—For purposes of this subsection, the term 'ferry' means a passenger service operated with the use of vessels which arrive in the United States on regular schedules at intervals of at least once each hour during any period in which customs service is to be furnished without reimbursement under this subsection.

"(c) REGULATIONS.—The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the provisions of this section.".

(c)(1) Section 450 of the Tariff Act of 1930 (19 U.S.C. 1450) is amended—

(A) by striking out ", a holiday, or at night" and by inserting in lieu thereof "or a holiday or at any time that would require customs officers to provide any services described in section 451(a)(1) as overtime (within the meaning of section 451(a)(2)(A))";

(B) by inserting ", aircraft," after "vessel"; and

(C) by striking out "AT NIGHT" in the heading and inserting in lieu thereof "AS OVERTIME".

(2) Section 452 of the Tariff Act of 1930 (19 U.S.C. 1452) is amended—

(A) by striking out "at night" and inserting in lieu thereof "at any time that would require customs officers to provide any services described in section 451(a)(1) as overtime";

(B) by inserting ", aircraft," after "vessel"; and

(C) by striking out "AT NIGHT" in the heading and inserting in lieu thereof "AS OVERTIME".

(d) Paragraphs (2) and (3) of section 5549 of title 5, United States Code, are amended to read as follows:

"(2) section 294 of the Immigration and Nationality Act;

"(3) sections 450, 451, and 452 of the Tariff Act of 1930;".

IMMIGRATION AND NATURALIZATION SERVICE

SEC. 202. (a) Paragraphs (2) and (3) of section 5549 of title 5, United States Code, are amended to read as follows:

"(2) section 294 of the Immigration and Nationality Act;

"(3) sections 1450, 1451, and 1452 of title 19;".

(b)(1) The Immigration and Nationality Act is amended by inserting after section 293 the following new section:

"PREMIUM COMPENSATION FOR OVERTIME; REIMBURSEMENT OF COMPENSATION

"SEC. 294. (a)(1) The provisions of this section shall apply to services in connection with the examination and landing of passengers and crews of steamships, trains, airplanes, or other vehicles, arriving in the United States from a foreign port by water, land, or air. The Attorney General may issue regulations to implement the provisions of this section.

"(2) An employee of the Immigration and Naturalization Service who is required to perform services under this section shall be compensated for those services as follows:

"(A) Hours of work officially ordered or approved in excess of 40 hours in an administrative workweek or in excess of 8 hours per day shall be considered overtime. Overtime shall be compensated at a rate of pay equal to one and one-half times the hourly rate of basic pay of the employee, and shall be calculated and paid in 15-minute increments.

"(B) For overtime work which begins more than 2 hours before or after a regularly scheduled or previous overtime assignment, the employee performing such work shall be paid the greater of—

"(i) the sum of overtime pay calculated for the period of overtime actually worked in 15-minute increments and 2 hours overtime pay; or

"(ii) 4 hours overtime pay.

All overtime under this paragraph shall be paid as provided in paragraph (A).

"(C) For overtime work which begins within 2 hours before or after a regularly scheduled assignment or within 2 hours after a previous overtime assignment, the amount of overtime earned shall be calculated as if the employee had worked continuously—

"(i) to the beginning of such assignment (in the case of overtime work which begins within 2 hours before a regularly scheduled assignment); or

"(ii) from the end of such assignment (in the case of overtime work which begins within 2 hours after the end of a regularly scheduled assignment or a previous overtime assignment).

Overtime earned under this paragraph shall be paid as provided in paragraph (A).

"(D) Regularly scheduled work on Sundays and holidays shall not be considered overtime, and shall be compensated at a rate of pay equal to one and one-quarter times the hourly rate of basic pay of the employee. Overtime work as defined in paragraph (A) performed on Sundays and holidays shall be compensated as provided in that paragraph.

"(E) Compensation provided for under this section, other than that attributable to the hourly rate of basic pay, shall not be paid if payment would cause an employee's aggregate pay during any fiscal year to exceed the maximum rate of pay for GS-15 under section 5332 of title 5, United States Code.

"(3) Compensation shall be paid for services covered under this section solely in accordance with the provisions of this section and, to the extent not covered by this section, the applicable provisions of title 5, United States Code, and without regard to the provisions of section 207 of title 29, United States Code, except that compensation provided for under this section shall be in addition to, and not affected by, any holiday pay or premium pay for nighttime work authorized by law.

"(b)(1) Except as provided in section 53 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1741), the master, owner, agent, or consignee of such aircraft, vessel, vehicle, or merchandise who has requested or required any of the services provided for in subsection (a)(1) shall reimburse the Service, as determined by the Attorney General and pursuant to the procedures in paragraph (2) of this subsection. Reimbursement shall be required for all overtime payable under subsection (a)(2)(A) and all pay in excess of the rate of basic pay payable under subsection (a)(2)(D), in connection with any of the services provided for in subsection (a)(1). Such master, owner, agent, or consignee shall reimburse the Service for such pay that has been paid to an employee who has reported for duty whether or not the actual inspection or examination takes place.

"(2) The master, owner, or agent of such aircraft, vessel, or vehicle shall obtain a special license for unlading or lading during overtime, Sunday, or holiday hours pursuant to sections 450 and 452 of this title. Before any such special license to unlade or lade shall be granted, or before any application from a consignee of merchandise for overtime services shall be accepted, there shall be deposited sufficient money to pay, or a bond shall be required in an amount to be fixed by the Attorney General conditioned to pay, the compensation and expenses of the customs officers and employees assigned to duty in connection with the activities described in subsection (a)(1). In lieu of such deposit or bond, the owner or agent of any aircraft, vessel, or line of vessels or vehicles may execute a bond, in an amount to be fixed by the Attorney General, to cover and include the issuance of special licenses for the unlading or lading of such aircraft, vessels, or vehicles for a period not to exceed one year.

"(3) The provisions of paragraphs (1) and (2) of this subsection shall not apply to the owner, operator, or agent of a highway vehicle, bridge, tunnel, or ferry, between the United States and Canada or between the United States and Mexico, nor to the lading or unlading of merchandise, baggage, or persons arriving in or departing from the United States by motor vehicle, trolley car, on foot, or by other means of highway travel upon, over, or through any highway, bridge, tunnel, or ferry. As used in this paragraph, the term 'ferry' means a passenger service operated with the use of vessels which arrive in the United States on regular schedules at intervals of at least once each hour during any period in which customs service is to be furnished without reimbursement as provided in this subsection.".

(2) The table of contents for the Immigration and Nationality Act is amended by inserting after the item relating to section 293 the following new item:

"Sec. 294. Premium compensation for overtime; reimbursement of compensation.".

(c)(1) The Act entitled "An Act to provide extra compensation for overtime services performed by immigrant inspectors and other employees of the Immigration Service", approved March 2, 1931 (8 U.S.C. 1353a-b) is repealed.

(2) The Act of August 22, 1940 (8 U.S.C. 1353d) is amended by striking out "the Act of March 2, 1931 (46 Stat. 1467)" and inserting in lieu thereof "section 294 of the Immigration and Nationality Act".

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SEC. 203. The text of the Act entitled "An Act to enable the Secretary of Agriculture to furnish, upon a reimbursable basis, certain inspection services involving overtime work", approved August 28, 1950 (7 U.S.C. 2260), is amended to read as follows: "That this Act may be cited as the 'Agricultural Inspection and Quarantine Services Act of 1985'.

"DEFINITIONS

"SEC. 2. As used in this Act:

"(1) The term 'Secretary' means the Secretary of Agriculture.

"(2) The term 'Service' means the Animal and Plant Health Inspection Service of the Department of Agriculture.

"INSPECTION AND QUARANTINE SERVICES

"SEC. 3. This Act shall apply to employees of the Service performing inspection or quarantine services relating to imports into and exports from the United States.

"RATES OF OVERTIME COMPENSATION

"SEC. 4. (a) An employee of the Service who is required to perform services referred to in section 3 shall be compensated for such services in accordance with this section.

"(b)(1) Hours of work officially ordered or approved in excess of forty hours in a workweek (as defined by the Secretary), or in excess of eight hours per day, shall be considered overtime.

"(2) Such overtime work of an employee shall be—

"(A) compensated at a rate of pay equal to one and one-half times the hourly rate of basic pay of the employee; and

"(B) calculated and paid in fifteen-minute increments.

"(c)(1) In the case of overtime work which begins more than two hours before or after a regularly scheduled or previous overtime assignment, an employee shall receive—

"(A) two hours of overtime compensation for any work up to two hours in duration; and

"(B) overtime compensation for actual time worked for any work greater than two hours calculated in fifteen-minute increments.

"(2) An employee receiving overtime under this subsection shall receive two hours overtime compensation in addition to any other overtime compensation required under this section.

"(3) Any overtime compensation referred to in paragraph (1) shall be paid as provided in subsection (b).

"(d)(1) In the case of overtime work which begins within two hours before or after a regularly scheduled or previous overtime assignment, the amount of overtime compensation earned shall be calculated as if the employee had worked continuously to the beginning, or from the end, of the regularly scheduled or previous overtime assignment.

"(2) Any overtime compensation referred to in paragraph (1) shall be paid as provided in subsection (b).

"(e)(1) Regularly scheduled work on a Sunday or holiday by an employee—

"(A) shall not be considered overtime; and

"(B) shall be compensated at a rate of pay equal to one and one-quarter times the hourly rate of basic pay of the employee.

"(2) Overtime work referred to in subsection (b) which is performed on a Sunday or holiday shall be compensated as provided in such subsection.

"(f) Compensation under this section, other than compensation attributable to the hourly rate of basic pay of an employee, shall not be paid to an employee if such compensation would cause the aggregate pay of the employee during any fiscal year to exceed the maximum rate of pay for grade GS-15 prescribed under section 5332 of title 5, United States Code.

"(g)(1) Except as provided in paragraph (2), compensation for services covered under this section shall be paid—

"(A) solely in accordance with this section and, to the extent not prescribed by this section, the applicable provisions of title 5, United States Code; and

"(B) without regard to section 268 of title 29, United States Code.

"(2) Compensation for services covered under this section shall be in addition to, and not affected by, any holiday pay or premium pay for night work authorized by law.

"REIMBURSEMENT FOR SERVICES

"Sec. 5. (a) Except as provided in section 53 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1741), a person, firm, or corporation having ownership, custody, or control of a plant, plant product, or other commodity subject to inspection, laboratory testing, certification, or quarantine requiring the services of an employee of the Service shall reimburse the Secretary for such services in such amount and in such manner as is determined by the Secretary in accordance with section 4.

"(b) Reimbursement for any services referred to in section 3 shall be required for—

"(1) all overtime work referred to in section 4(b); and

"(2) all work compensated under section 4(e) in excess of the rate of basic pay of an employee.

"(c) If an employee reports for duty to a person, firm, or corporation to conduct an inspection or examination, such person, firm, or corporation shall reimburse the Secretary for compensation paid to such employee for such inspection or examination whether or not the actual inspection or examination takes place.

"REGULATIONS

"Sec. 6. The Secretary may issue such regulations as are necessary to carry out this Act.".

TITLE III—EFFECTIVE DATE

EFFECTIVE DATE

Sec. 301. The provisions of this Act, and the amendments made by this Act, shall take effect on the date of enactment of this Act.

BORDER MANAGEMENT CONSOLIDATION AND IMPROVEMENT ACT OF 1986

Problem: The Grace Commission study, like many others in the past, concluded that there is a costly and unnecessary duplication of effort undertaken at the nation's borders by the Customs Service and the Immigration and Naturalization Service (INS). Six other Federal agencies perform functions in this area as well. In addition, the Commission found that overtime provisions for Customs and INS officials were far more liberal than those for other Federal employees. The Grace Commission estimated that consolidation and overtime pay structure reforms will save $13.5 million over 3 years.

The Purpose of this bill is to strengthen law enforcement at the United States borders and ports of entry and to reduce costs of border management by:

Requiring the Office of Management to submit a plan for the consolidation of border management functions now carried out by the Customs Service and INS, and having such plan take effect within 60 days from submission to Congress unless disapproved during that period by a joint resolution;

Requiring development by OMB of a comprehensive border management policy to eliminate overlap and duplication among the associated operating and support functions performed by the several agencies involved; and

Changing overtime laws for Customs Service, Immigration and Naturalization Service, and Animal and Plant Health Inspection Service employees in accordance with the Federal Employee Pay Act to bring employees pay entitlement into line with overtime pay provisions of other Federal employees.

S. —

BORDER MANAGEMENT CONSOLIDATION AND IMPROVEMENT ACT OF 1986

A bill to Implement Certain Recommendations of the President's Private Sector Survey on Cost Control

Sec. 2. Purpose.—To strengthen law enforcement at the borders and ports of entry of the United States and reduce the costs of border management, that Act (1) requires the consolidation of border management functions carried out by U.S. Customs Service and the Immigration and Naturalization Service; (2) requires the development of a comprehensive policy to eliminate duplication in associated operating and support functions; and (3) brings the overtime pay provisions for Customs Service, Immigration and Naturalization Service, and Animal and Plant Health Inspection Service employees in line with pay provisions for other Federal employees.

TITLE I.—BORDER MANAGEMENT CONSOLIDATION

Sec. 101. Border Management Consolidation Plan.—Within 180 days of the enactment of this Act, the Director of OMB, in consultation with the Office of Policy Development of the Executive Office of the President, the Secretary of the Treasury, the Attorney General and the head of any other concerned agency, is required to submit to Congress a plan which

(1) provides for the consolidation of the primary inspection functions of the U.S. Customs Service and the Immigration and Naturalization Service, and

(2) sets forth a comprehensive border management policy to eliminate overlap and duplication in the associated operating and support functions to include the consolidation or elimination of paperwork, the reduction of burdens placed on travelers and businesses, the reduction of space requirements, the sharing of facilities and equipment, and the cross-training of inspectors.

The plan is to take effect within 60 days from submission to Congress unless disapproved during that period by a joint resolution.

The Director of OMB is to oversee the consolidation which is to take place within one year of the plans effective date.

TITLE II.—EMPLOYEE OVERTIME COMPENSATION AND REIMBURSEMENT

Sec. 201. U.S. Customs Service.—Section 5 of the Act of February 13, 1911 (36 Stat. 901; 19 U.S.C. 261, 262), section 2 of the Act of June 3, 1944 (19 U.S.C. 1451a) and an Act entitled, "An Act to provide extra compensation for overtime service performed by immigrant inspectors and other employees of the Immigration Service" are repealed. Section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) is then amended so that overtime compensation and reimbursement provisions for U.S. Customs Service employees are brought in line with overtime pay provisions for other Federal employees.

Sec. 202. Immigration and Naturalization Service.—Similar to section 201 above, section 5549 of title 5, United States Code, is amended so that the overtime compensation and reimbursement provisions for Immigration and Naturalization Service employees are brought in line with overtime pay provisions for other Federal employees.

Sec. 203. Animal and Plant Health Inspection Service.—Similar to sections 201 and 202 above, "An Act to enable the Secretary of Agriculture to furnish, upon a reimbursable basis, certain inspection services involving overtime work", approved August 28, 1950 (7 U.S.C. 2260), is amended so that overtime compensation and reimbursement provisions for Animal and Plant Health Inspection Service employees are brought in line with overtime pay provisions for other Federal employees.

TITLE III.—EFFECTIVE DATE

Sec. 301. Effective Date.—This act takes effect on the date of enactment.

S. 2627

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Hospital System Sharing Act of 1986".

PURPOSE

Sec. 2. The purpose of this Act is to improve the efficiency and reduce the costs of Veterans' Administration and Department of Defense hospitals by expanding the authority to share health-care resources.

SHARING VETERANS' ADMINISTRATION AND DEPARTMENT OF DEFENSE HEALTH-CARE RESOURCES

Sec. 3. (a) Section 5011(d)(1) of title 38, United States Code, is amended by striking out the second sentence and inserting in lieu thereof the following: "Under any such agreement, an individual who is eligible to receive direct health care in a facility at one agency that is a party to such a sharing agreement may be furnished health care at a facility of another such agency that is a party to the sharing agreement.".

(b) Section 5011(d)(3) of such title is amended by striking out "individuals who are not primary beneficiaries of" and inserting in lieu thereof "beneficiaries of an agency other than".

(c) Section 5011(g)(1) of such title is amended to read as follows:

"(1) The term 'beneficiary' means a person who is entitled by law to receive direct health care furnished by the Veterans' Administration or the Department of Defense.".

FEDERAL HOSPITAL SYSTEM SHARING ACT OF 1986

Problem: The Grace Commission study found that increased sharing of hospital resources between the Department of Defense and the Veterans Administration (VA) would reduce costs. In 1982, the Congress enacted the Veterans Administration and Department of Defense Health Resources Sharing and Emergency Operations Act (P.L. 97-174) which provides for sharing of hospital resources. The 1982 Act, however, extends sharing authority to cover primary beneficiaries and does not cover Defense dependents, retirees, or survivors of deceased military members. This has impeded sharing agreements between Defense and the Veterans Administration. The Commission gave no specific savings estimate in this area. GAO agreed that savings cannot be ac-

99TH CONGRESS
2D SESSION

H. R. 5115

To increase Government economy and efficiency and to reduce the deficit by implementing certain recommendations of the President's Private Sector Survey on Cost Control regarding the consolidation of border management and the revision of overtime laws for inspectors, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26 1986

Mr. DORNAN of California (for himself, Mr. BARTLETT, Mr. BROWN of Colorado, Mr. GUNDERSON, Mr. DIOGUARDI, Mr. BARNARD, Mr. MILLER of Washington, Mr. PACKARD, Mr. STENHOLM, and Mr. NEAL) introduced the following bill; which was referred jointly to the Committees on the Judiciary, Ways and Means, and Agriculture

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A BILL

To increase Government economy and efficiency and to reduce the deficit by implementing certain recommendations of the President's Private Sector Survey on Cost Control regarding the consolidation of border management and the revision of overtime laws for inspectors, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Border Management Consolidation and Improvement Act of 1986".

PURPOSE

SEC. 2. In order to strengthen law enforcement at United States borders and ports of entry and to reduce costs of border management, this Act—

(1) requires the consolidation of border management functions presently carried out by the United States Customs Service and the Immigration and Naturalization Service;

(2) requires the development of a comprehensive border management policy to eliminate overlap and duplication in the associated operating and support functions; and

(3) changes overtime laws for the United States Customs Service, Immigration and Naturalization Service, and Animal and Plant Health Inspection Service employees in accordance with the Federal Employee Pay Act to bring these employees pay entitlement in line with overtime pay provisions of other Federal employees.

TITLE I—BORDER MANAGEMENT CONSOLIDATION

SEC. 101. (a) The Director of the Office of Management and Budget, in consultation with the Assistant to the President for Policy Development, the Secretary of the Treasury, the Attorney General, and the head of any other concerned agency, shall develop and submit to the Congress by no later than the date that is 180 days after the date of enactment of this Act, a plan which—

(1) provides for the consolidation of the primary inspection functions performed by the United States Customs Service and the Immigration and Naturalization Service at the borders of the United States and at ports of entry into the United States; and

(2) sets forth a comprehensive border management policy to eliminate overlap and duplication in the operating and support functions of all Federal agencies that carry out activities at borders and ports of entry into the United States, that shall address, among other issues—

(A) the consolidation or elimination of paperwork,

(B) the reduction of burdens placed on travelers and businesses,

(C) the reduction of space requirements of such Federal agencies,

(D) the sharing of facilities and equipment by such Federal agencies, and

(E) the cross-training of inspectors.

(b)(1) The Director of the Office of Management and Budget shall begin implementation of the plan developed under subsection (a) on the date that is 60 days after the date on which such plan is submitted to the Congress. Implementation of such plan shall be completed by no later than the date that is 1 year after the date on which such plan is submitted to the Congress.

(2) Notwithstanding paragraph (1), the plan submitted to the Congress under subsection (a) shall not be implemented if a joint resolution described in paragraph (3) is enacted into law before the date that is 60 days after the date on which such plan is submitted to the Congress.

(3) The joint resolution referred to in paragraph (2) is a joint resolution of either House of the Congress the matter after the resolving clause of which is as follows: "That the plan submitted to Congress under section 101(a) of the Border Management Consolidation and Improvement Act of 1986 is disapproved and shall not be implemented.".

(4) Any joint resolution described in paragraph (3) which is introduced in either, or both, Houses of Congress—

(A) shall be jointly referred to the appropriate committees, and

(B) shall be considered to be a resolution described in section 152(a)(1) of the Trade Act of 1974 (19 U.S.C. 2192(a)(1)) for purposes of applying subsections (c), (d), (e), and (f) of section 152 of the Trade Act of 1974.

(5) The 60-day period described in paragraphs (1) and (2) shall be computed without regard to—

(A) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

(B) any Saturday and Sunday, not excluded under clause (A), when either House of Congress is not in session.

TITLE II—EMPLOYEE OVERTIME COMPENSATION AND REIMBURSEMENT

UNITED STATES CUSTOMS SERVICE

SEC. 201. (a) Section 5 of the Act of February 13, 1911 (36 Stat. 901; 19 U.S.C. 261, 267) and section 2 of the Act of June 3, 1944 (19 U.S.C. 1451a) are hereby repealed.

(b) Section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) is amended to read as follows:

"SEC. 451. INSPECTIONAL SERVICES.

"(a) COMPENSATION.—

"(1) INSPECTIONAL SERVICES.—The provisions of this section shall apply to services rendered in connection with—

"(A) the boarding of aircraft, vessels, or vehicles,

"(B) the lading or unlading of cargo,

"(C) the lading of cargo or merchandise for—

"(i) transportation in bond,

"(ii) exportation in bond, or

"(iii) exportation with benefit of drawback,

"(D) the receiving or delivery of cargo on or from the wharf or airport, or

"(E) the examination of passengers' baggage arriving in, or departing from, the United States by water, land, or air.

"(2) OVERTIME.—

"(A) IN GENERAL.—For purposes of this section, the term 'overtime' means hours of work officially ordered or approved in excess of—

"(i) 40 hours in an administrative workweek, or

"(ii) 8 hours per day.

"(B) SUNDAYS AND HOLIDAYS.—Regularly scheduled work on Sundays and holidays shall not be considered overtime and shall be compensated at a rate of pay equal to 1.25 percent of the hourly rate of basic pay of the employee. Work performed as overtime (as defined in subparagraph

(A)) on Sundays and holidays shall be compensated as provided in paragraph (3).

"(3) RATES OF COMPENSATION.—Any employee of the United States Customs Service who is required to perform any of the services described in paragraph (1) as overtime shall be compensated for those services as follows:

"(A) Such services performed as overtime shall be compensated at a rate of pay equal to 1.5 percent of the hourly rate of basic pay of the employee, and shall be calculated and paid in 15-minute increments.

"(B)(i) For services performed as overtime that are part of any assignment which begins more than 2 hours before or after a regularly scheduled or previous overtime assignment, an employee shall receive—

"(I) 2 hours of overtime pay for any work up to 2 hours in duration, and

"(II) overtime pay for actual time worked for any work greater than 2 hours calculated in 15-minute increments.

"(ii) An employee receiving overtime pay under this subparagraph shall receive 2 hours overtime pay in addition to any other overtime pay provided under this paragraph.

"(iii) For services performed as overtime that are part of any assignment which begins within 2 hours before or after a regularly scheduled or previous overtime assignment, the amount of overtime earned shall be calculated as if the employee had worked continuously to the beginning, or from the end, of the regularly scheduled or previous overtime assignments.

"(4) LIMITATION.—Compensation provided under this section, other than that attributable to the hourly rate of basic pay, shall not be paid if payment would cause an employee's aggregate pay during any fiscal year to exceed the maximum rate of pay for GS–15 under section 5332 of title 5, United States Code.

"(5) EXCLUSIVITY OF THIS SECTION.—Compensation shall be paid for the services described in paragraph (1)—

"(A) solely in accordance with the provisions of—

"(i) this section, and

"(ii) to the extent not covered by this section, the applicable provisions of title 5, United States Code; and

"(B) without regard to the provisions of section 207 of title 29, United States Code;

except that compensation provided under this section shall be in addition to, and not affected by, any holiday pay or premium pay for nighttime work authorized by law.

"(b) REIMBURSEMENT OF COMPENSATION.—

"(1) IN GENERAL.—Except as provided in section 53 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1741), the master, owner, agent, or consignee of any aircraft, vessel, vehicle, or merchandise who has requested or required the rendering of any services described in subsection (a)(1) shall reimburse the Department of the Treasury for—

"(A) all overtime payable under subsection (a)(3), and

"(B) all amounts paid under subsection (a)(2)(B) in excess of the basic pay,

which are paid in connection with such services. If a customs officer reports for duty to render such services, such reimbursement shall be required regardless of whether the inspection or examination actually takes place.

"(2) PROCEDURES.—Before granting any special license under section 450 or 452, and before accepting any application from a consignee of merchandise for the rendering of services described in subsection (a)(1) on a Sunday or holiday or at any time that would require customs officers to provide such services as overtime, an amount of money which is sufficient to pay the compensation and expenses of the customs officers and employees assigned to provide such services shall be deposited or a bond for such amount shall be posted. In lieu of such deposit or bond, the owner or agent of any aircraft, vessel, vehicle, or line of aircraft, vessels, or vehicles may execute a bond, in an amount to be fixed by the Secretary of the Treasury, to cover such compensation and expenses (including the costs of issuing such special licenses) for the unlading or lading of such aircraft, vessels, or vehicles for a period not to exceed one year.

"(3) EXCEPTIONS.—The provisions of this subsection shall not apply to—

"(A) the owner, operator, or agent of a highway vehicle, bridge, tunnel, or ferry, between the United States and Canada or between the United States and Mexico, or

"(B) the lading or unlading of merchandise, baggage, or persons arriving in, or departing from, the United States by motor vehicle, trolley car, on foot, or by other means of travel upon, over, or through any highway, bridge, tunnel, or ferry.

"(4) FERRY.—For purposes of this subsection, the term 'ferry' means a passenger service operated with the use of vessels which arrive in the United States on regular schedules at intervals of at least once each hour during any period in which customs service is to be furnished without reimbursement under this subsection.

"(c) REGULATIONS.—The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the provisions of this section.".

(c)(1) Section 450 of the Tariff Act of 1930 (19 U.S.C. 1450) is amended—

(A) by striking out ", a holiday, or at night" and by inserting in lieu thereof "or a holiday or at any time that would require customs officers to provide any services described in section 451(a)(1) as overtime (within the meaning of section 451(a)(2)(A))";

(B) by inserting ", aircraft," after "vessel"; and

(C) by striking out "**AT NIGHT**" in the heading and inserting in lieu thereof "**AS OVERTIME**".

(2) Section 452 of the Tariff Act of 1930 (19 U.S.C. 1452) is amended—

(A) by striking out "at night" and inserting in lieu thereof "at any time that would require customs officers to provide any services described in section 451(a)(1) as overtime";

(B) by inserting ", aircraft," after "vessel"; and

(C) by striking out "**AT NIGHT**" in the heading and inserting in lieu thereof "**AS OVERTIME**".

(d) Paragraphs (2) and (3) of section 5549 of title 5, United States Code, are amended to read as follows:

"(2) section 294 of the Immigration and Nationality Act;

"(3) sections 450, 451, and 452 of the Tariff Act of 1930;".

IMMIGRATION AND NATURALIZATION SERVICE

SEC. 202. (a) Paragraphs (2) and (3) of section 5549 of title 5, United States Code, are amended to read as follows:

"(2) section 294 of the Immigration and Nationality Act;

"(3) sections 1450, 1451, and 1452 of title 19;".

(b)(1) The Immigration and Nationality Act is amended by inserting after section 293 the following new section:

"PREMIUM COMPENSATION FOR OVERTIME; REIMBURSEMENT OF COMPENSATION

"SEC. 294. (a)(1) The provisions of this section shall apply to services in connection with the examination and landing of passengers and crews of steamships, trains, airplanes, or other vehicles, arriving in the United States from a foreign port by water, land, or air. The Attorney General may issue regulations to implement the provisions of this section.

"(2) An employee of the Immigration and Naturalization Service who is required to perform services under this section shall be compensated for those services as follows:

"(A) Hours of work officially ordered or approved in excess of 40 hours in an administrative workweek or in excess of 8 hours per day shall be considered overtime. Overtime shall be compensated at a rate of pay equal to one and one-half times the hourly rate of basic pay of the employee, and shall be calculated and paid in 15-minute increments.

"(B) For overtime work which begins more than 2 hours before or after a regularly scheduled or previous overtime assignment, the employee performing such work shall be paid the greater of—

"(i) the sum of overtime pay calculated for the period of overtime actually worked in 15-minute increments and 2 hours overtime pay; or

"(ii) 4 hours overtime pay.

All overtime under this paragraph shall be paid as provided in paragraph (A).

"(C) For overtime work which begins within 2 hours before or after a regularly scheduled assignment or within 2 hours after a previous overtime assignment, the amount of overtime earned shall be calculated as if the employee had worked continuously—

"(i) to the beginning of such assignment (in the case of overtime work which begins within 2 hours before a regularly scheduled assignment); or

"(ii) from the end of such assignment (in the case of overtime work which begins within 2 hours after the end of a regularly scheduled assignment or a previous overtime assignment).

Overtime earned under this paragraph shall be paid as provided in paragraph (A).

"(D) Regularly scheduled work on Sundays and holidays shall not be considered overtime, and shall be compensated at a rate of pay equal to one and one-quarter times the hourly rate of basic pay of the employee. Overtime work as defined in paragraph (A) performed on Sundays and holidays shall be compensated as provided in that paragraph.

"(E) Compensation provided for under this section, other than that attributable to the hourly rate of basic pay, shall not be paid if payment would cause an employee's aggregate pay during any fiscal year to exceed the maximum rate of pay for GS–15 under section 5332 of title 5, United States Code.

"(3) Compensation shall be paid for services covered under this section solely in accordance with the provisions of this section and, to the extent not covered by this section, the applicable provisions of title 5, United States Code, and without regard to the provisions of section 207 of title 29, United States Code, except that compensation provided for under this section shall be in addition to, and not affected by, any holiday pay or premium pay for nighttime work authorized by law.

"(b)(1) Except as provided in section 53 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1741), the master, owner, agent, or consignee of such aircraft, vessel, vehicle, or merchandise who has requested or required any of the services provided for in subsection (a)(1) shall reimburse the Service, as determined by the Attorney General and pursuant to the procedures in paragraph (2) of this subsection. Reimbursement shall be required for all overtime payable under subsection (a)(2)(A) and all pay in excess of the rate of basic pay payable under subsection (a)(2)(D), in connection with any of the services provided for in subsection (a)(1). Such master, owner, agent, or consignee shall reimburse the Service for such pay that has been paid to an employee who has reported for duty whether or not the actual inspection or examination takes place.

"(2) The master, owner, or agent of such aircraft, vessel, or vehicle shall obtain a special license for unlading or lading during overtime, Sunday, or holiday hours pursuant to sections 450 and 452 of this title. Before any such special license to unlade or lade shall be granted, or before any application from a consignee of merchandise for overtime services shall be accepted, there shall be deposited sufficient money to pay, or a bond shall be required in an amount to be fixed by the Attorney General conditioned to pay, the compensation and expenses of the customs officers and employees assigned to duty in connection with the activities described in subsection (a)(1). In lieu of such deposit or bond, the owner or agent of any aircraft, vessel, or line of vessels or vehicles may execute a bond, in an amount to be fixed by the Attorney General, to cover and include the issuance of special licenses for the unlading or lading of such aircraft, vessels, or vehicles for a period not to exceed one year.

"(3) The provisions of paragraphs (1) and (2) of this subsection shall not apply to the owner, operator, or agent of a highway vehicle, bridge, tunnel, or ferry, between the United States and Canada or between the United States and Mexico, nor to the lading or unlading of merchandise, baggage, or persons arriving in or departing from the United States by motor vehicle, trolley car, on foot, or by other means of highway travel upon, over, or through any highway, bridge, tunnel, or ferry. As used in this paragraph, the term 'ferry' means a passenger service operated with the use of vessels which arrive in the United States on regular schedules at intervals of at least once each hour during any period in which customs service is to be furnished without reimbursement as provided in this subsection.".

(2) The table of contents for the Immigration and Nationality Act is amended by inserting after the item relating to section 293 the following new item:

"Sec. 294. Premium compensation for overtime; reimbursement of compensation.".

(c)(1) The Act entitled "An Act to provide extra compensation for overtime service performed by immigrant inspectors and other employees of the Immigration Service", approved March 2, 1931 (8 U.S.C. 1353a–b) is repealed.

(2) The Act of August 22, 1940 (8 U.S.C. 1353d) is amended by striking out "the Act of March 2, 1931 (46 Stat. 1467)" and inserting in lieu thereof "section 294 of the Immigration and Nationality Act".

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SEC. 203. The text of the Act entitled "An Act to enable the Secretary of Agriculture to furnish, upon a reimbursable basis, certain inspection services involving overtime work", approved August 28, 1950 (7 U.S.C. 2260), is amended to read as follows: "That this Act may be cited as the 'Agricultural Inspection and Quarantine Services Act of 1986'.

"DEFINITIONS

"SEC. 2. As used in this Act:

"(1) The term 'Secretary' means the Secretary of Agriculture.

"(2) The term 'Service' means the Animal and Plant Health Inspection Service of the Department of Agriculture.

"INSPECTION AND QUARANTINE SERVICES

"SEC. 3. This Act shall apply to employees of the Service performing inspection or quarantine services relating to imports into and exports from the United States.

"RATES OF OVERTIME COMPENSATION

"SEC. 4. (a) An employee of the Service who is required to perform services referred to in section 3 shall be compensated for such services in accordance with this section.

"(b)(1) Hours of work officially ordered or approved in excess of forty hours in a workweek (as defined by the Secretary), or in excess of eight hours per day, shall be considered overtime.

"(2) Such overtime work of an employee shall be—

"(A) compensated at a rate of pay equal to one and one-half times the hourly rate of basic pay of the employee; and

"(B) calculated and paid in fifteen-minute increments.

"(c)(1) In the case of overtime work which begins more than two hours before or after a regularly scheduled or previous overtime assignment, an employee shall receive—

"(A) two hours of overtime compensation for any work up to two hours in duration; and

"(B) overtime compensation for actual time worked for any work greater than two hours calculated in fifteen-minute increments.

"(2) An employee receiving overtime under this subsection shall receive two hours overtime compensation in addition to any other overtime compensation required under this section.

"(3) Any overtime compensation referred to in paragraph (1) shall be paid as provided in subsection (b).

"(d)(1) In the case of overtime work which begins within two hours before or after a regularly scheduled or previous overtime assignment, the amount of overtime compensation earned shall be calculated as if the employee had worked continuously to the beginning, or from the end, of the regularly scheduled or previous overtime assignment.

"(2) Any overtime compensation referred to in paragraph (1) shall be paid as provided in subsection (b).

"(e)(1) Regularly scheduled work on a Sunday or holiday by an employee—

"(A) shall not be considered overtime; and

"(B) shall be compensated at a rate of pay equal to one and one-quarter times the hourly rate of basic pay of the employee.

"(2) Overtime work referred to in subsection (b) which is performed on a Sunday or holiday shall be compensated as provided in such subsection.

"(f) Compensation under this section, other than compensation attributable to the hourly rate of basic pay of an employee, shall not be paid to an employee if such compensation would cause the aggregate pay of the employee during any fiscal year to exceed the maximum rate of pay for grade GS–15 prescribed under section 5332 of title 5, United States Code.

"(g)(1) Except as provided in paragraph (2), compensation for services covered under this section shall be paid—

"(A) solely in accordance with this section and, to the extent not prescribed by this section, the applicable provisions of title 5, United States Code; and

"(B) without regard to section 207 of title 29, United States Code.

"(2) Compensation for services covered under this section shall be in addition to, and not affected by, any holiday pay or premium pay for night work authorized by law.

"REIMBURSEMENT FOR SERVICES

"SEC. 5. (a) Except as provided in section 53 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1741), a person, firm, or corporation having ownership, custody, or control of a plant, plant product, or other commodity subject to inspection, laboratory testing, certification, or quarantine requiring the services of an employee of the Service shall reimburse the Secretary for such services in such amount and in such manner as is determined by the Secretary in accordance with section 4.

"(b) Reimbursement for any services referred to in section 3 shall be required for—

"(1) all overtime work referred to in section 4(b); and

"(2) all work compensated under section 4(e) in excess of the rate of basic pay of an employee.

"(c) If an employee reports for duty to a person, firm, or corporation to conduct an inspection or examination, such person, firm, or corporation shall reimburse the Secretary for compensation paid to such employee for such inspection or examination whether or not the actual inspection or examination takes place.

"REGULATIONS

"SEC. 6. The Secretary may issue such regulations as are necessary to carry out this Act.".

TITLE III—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 301. The provisions of this Act, and the amendments made by this Act, shall take effect on the date of enactment of this Act.

100TH CONGRESS
1ST SESSION

H. R. 1592

To increase Government economy and efficiency and to reduce the deficit by implementing certain recommendations of the President's Private Sector Survey on Cost Control regarding the consolidation of border management and the revision of overtime laws for inspectors, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 1987

Mr. DORNAN of California introduced the following bill; which was referred jointly to the Committees on the Judiciary, Ways and Means, and Agriculture

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A BILL

To increase Government economy and efficiency and to reduce the deficit by implementing certain recommendations of the President's Private Sector Survey on Cost Control regarding the consolidation of border management and the revision of overtime laws for inspectors, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Border Management Consolidation and Improvement Act of 1987".

PURPOSE

SEC. 2. In order to strengthen law enforcement at United States borders and ports of entry and to reduce costs of border management, this Act—

(1) requires the consolidation of border management functions presently carried out by the United States Customs Service and the Immigration and Naturalization Service;

(2) requires the development of a comprehensive border management policy to eliminate overlap and duplication in the associated operating and support functions; and

(3) changes overtime laws for the United States Customs Service, Immigration and Naturalization Service, and Animal and Plant Health Inspection Service employees in accordance with the Federal Employee Pay Act to bring these employees pay entitlement in line with overtime pay provisions of other Federal employees.

TITLE I—BORDER MANAGEMENT CONSOLIDATION

SEC. 101. (a) The Director of the Office of Management and Budget, in consultation with the Assistant to the President for Policy Development, the Secretary of the Treasury, the Attorney General, and the head of any other concerned agency, shall develop and submit to the Congress by no later than the date that is 180 days after the date of enactment of this Act, a plan which—

(1) provides for the consolidation of the primary inspection functions performed by the United States Customs Service and the Immigration and Naturalization Service at the borders of the United States and at ports of entry into the United States; and

(2) sets forth a comprehensive border management policy to eliminate overlap and duplication in the operating and support functions of all Federal agencies that carry out activities at borders and ports of entry into the United States, that shall address, among other issues—

(A) the consolidation or elimination of paperwork,

(B) the reduction of burdens placed on travelers and businesses,

(C) the reduction of space requirements of such Federal agencies,

(D) the sharing of facilities and equipment by such Federal agencies, and

(E) the cross-training of inspectors.

(b)(1) The Director of the Office of Management and Budget shall begin implementation of the plan developed under subsection (a) on the date that is 60 days after the date on which such plan is submitted to the Congress. Implementation of such plan shall be completed by no later than the date that is 1 year after the date on which such plan is submitted to the Congress.

(2) Notwithstanding paragraph (1), the plan submitted to the Congress under subsection (a) shall not be implemented if a joint resolution described in paragraph (3) is enacted into law before the date that is 60 days after the date on which such plan is submitted to the Congress.

(3) The joint resolution referred to in paragraph (2) is a joint resolution of either House of the Congress the matter after the resolving clause of which is as follows: "That the plan submitted to Congress under section 101(a) of the Border Management Consolidation and Improvement Act of 1987 is disapproved and shall not be implemented.".

(4) Any joint resolution described in paragraph (3) which is introduced in either, or both, Houses of Congress—

(A) shall be jointly referred to the appropriate committees, and

(B) shall be considered to be a resolution described in section 152(a)(1) of the Trade Act of 1974 (19 U.S.C. 2192(a)(1)) for purposes of applying subsections (c), (d), (e), and (f) of section 152 of the Trade Act of 1974.

(5) The 60-day period described in paragraphs (1) and (2) shall be computed without regard to—

(A) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

(B) any Saturday and Sunday, not excluded under clause (A), when either House of Congress is not in session.

TITLE II—EMPLOYEE OVERTIME COMPENSATION AND REIMBURSEMENT

UNITED STATES CUSTOMS SERVICE

SEC. 201. (a) Section 5 of the Act of February 13, 1911 (36 Stat. 901; 19 U.S.C. 261, 267) and section 2 of the Act of June 3, 1944 (19 U.S.C. 1451a) are hereby repealed.

(b) Section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) is amended to read as follows:

"SEC. 451. INSPECTIONAL SERVICES.

"(a) COMPENSATION.—

"(1) INSPECTIONAL SERVICES.—The provisions of this section shall apply to services rendered in connection with—

"(A) the boarding of aircraft, vessels, or vehicles,

"(B) the lading or unlading of cargo,

"(C) the lading of cargo or merchandise for—

"(i) transportation in bond,

"(ii) exportation in bond, or

"(iii) exportation with benefit of drawback,

"(D) the receiving or delivery of cargo on or from the wharf or airport, or

"(E) the examination of passengers' baggage arriving in, or departing from, the United States by water, land, or air.

"(2) OVERTIME.—

"(A) IN GENERAL.—For purposes of this section, the term 'overtime' means hours of work officially ordered or approved in excess of—

"(i) 40 hours in an administrative workweek, or

"(ii) 8 hours per day.

"(B) SUNDAYS AND HOLIDAYS.—Regularly scheduled work on Sundays and holidays shall not be considered overtime and shall be compensated at a rate of pay equal to 1.25 percent of the hourly rate of basic pay of the employee. Work performed as overtime (as defined in subparagraph

(A)) on Sundays and holidays shall be compensated as provided in paragraph (3).

"(3) RATES OF COMPENSATION.—Any employee of the United States Customs Service who is required to perform any of the services described in paragraph (1) as overtime shall be compensated for those services as follows:

"(A) Such services performed as overtime shall be compensated at a rate of pay equal to 1.5 percent of the hourly rate of basic pay of the employee, and shall be calculated and paid in 15-minute increments.

"(B)(i) For services performed as overtime that are part of any assignment which begins more than 2 hours before or after a regularly scheduled or previous overtime assignment, an employee shall receive—

"(I) 2 hours of overtime pay for any work up to 2 hours in duration, and

"(II) overtime pay for actual time worked for any work greater than 2 hours calculated in 15-minute increments.

"(ii) An employee receiving overtime pay under this subparagraph shall receive 2 hours overtime pay in addition to any other overtime pay provided under this paragraph.

"(iii) For services performed as overtime that are part of any assignment which begins within 2 hours before or after a regularly scheduled or previous overtime assignment, the amount of overtime earned shall be calculated as if the employee had worked continuously to the beginning, or from the end, of the regularly scheduled or previous overtime assignments.

"(4) LIMITATION.—Compensation provided under this section, other than that attributable to the hourly rate of basic pay, shall not be paid if payment would cause an employee's aggregate pay during any fiscal year to exceed the maximum rate of pay for GS-15 under section 5332 of title 5, United States Code.

"(5) EXCLUSIVITY OF THIS SECTION.—Compensation shall be paid for the services described in paragraph (1)—

"(A) solely in accordance with the provisions of—

"(i) this section, and

"(ii) to the extent not covered by this section, the applicable provisions of title 5, United States Code; and

"(B) without regard to the provisions of section 207 of title 29, United States Code;

except that compensation provided under this section shall be in addition to, and not affected by, any holiday pay or premium pay for nighttime work authorized by law.

"(b) REIMBURSEMENT OF COMPENSATION.—

"(1) IN GENERAL.—Except as provided in section 53 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1741), the master, owner, agent, or consignee of any aircraft, vessel, vehicle, or merchandise who has requested or required the rendering of any services described in subsection (a)(1) shall reimburse the Department of the Treasury for—

"(A) all overtime payable under subsection (a)(3), and

"(B) all amounts paid under subsection (a)(2)(B) in excess of the basic pay,

which are paid in connection with such services. If a customs officer reports for duty to render such services, such reimbursement shall be required regardless of whether the inspection or examination actually takes place.

"(2) PROCEDURES.—Before granting any special license under section 450 or 452, and before accepting any application from a consignee of merchandise for the rendering of services described in subsection (a)(1) on a Sunday or holiday or at any time that would require customs officers to provide such services as overtime, an amount of money which is sufficient to pay the compensation and expenses of the customs officers and employees assigned to provide such services shall be deposited or a bond for such amount shall be posted. In lieu of such deposit or bond, the owner or agent of any aircraft, vessel, vehicle, or line of aircraft, vessels, or vehicles may execute a bond, in an amount to be fixed by the Secretary of the Treasury, to cover such compensation and expenses (including the costs of issuing such special licenses) for the unlading or lading of such aircraft, vessels, or vehicles for a period not to exceed one year.

"(3) EXCEPTIONS.—The provisions of this subsection shall not apply to—

"(A) the owner, operator, or agent of a highway vehicle, bridge, tunnel, or ferry, between the United States and Canada or between the United States and Mexico, or

"(B) the lading or unlading of merchandise, baggage, or persons arriving in, or departing from, the United States by motor vehicle, trolley car, on foot, or by other means of travel upon, over, or through any highway, bridge, tunnel, or ferry.

"(4) FERRY.—For purposes of this subsection, the term 'ferry' means a passenger service operated with the use of vessels which arrive in the United States on regular schedules at intervals of at least once each hour during any period in which customs service is to be furnished without reimbursement under this subsection.

"(c) REGULATIONS.—The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the provisions of this section.".

(c)(1) Section 450 of the Tariff Act of 1930 (19 U.S.C. 1450) is amended—

(A) by striking out ", a holiday, or at night" and by inserting in lieu thereof "or a holiday or at any time that would require customs officers to provide any services described in section 451(a)(1) as overtime (within the meaning of section 451(a)(2)(A))";

(B) by inserting ", aircraft," after "vessel"; and

(C) by striking out "**AT NIGHT**" in the heading and inserting in lieu thereof "**AS OVERTIME**".

(2) Section 452 of the Tariff Act of 1930 (19 U.S.C. 1452) is amended—

(A) by striking out "at night" and inserting in lieu thereof "at any time that would require customs officers to provide any services described in section 451(a)(1) as overtime";

(B) by inserting ", aircraft," after "vessel"; and

(C) by striking out "**AT NIGHT**" in the heading and inserting in lieu thereof "**AS OVERTIME**".

(d) Paragraphs (2) and (3) of section 5549 of title 5, United States Code, are amended to read as follows:

"(2) section 294 of the Immigration and Nationality Act;

"(3) sections 450, 451, and 452 of the Tariff Act of 1930;".

IMMIGRATION AND NATURALIZATION SERVICE

SEC. 202. (a) Paragraphs (2) and (3) of section 5549 of title 5, United States Code, are amended to read as follows:

"(2) section 294 of the Immigration and Nationality Act;

"(3) sections 1450, 1451, and 1452 of title 19;".

(b)(1) The Immigration and Nationality Act is amended by inserting after section 293 the following new section:

"PREMIUM COMPENSATION FOR OVERTIME; REIMBURSEMENT OF COMPENSATION

"SEC. 294. (a)(1) The provisions of this section shall apply to services in connection with the examination and landing of passengers and crews of steamships, trains, airplanes, or other vehicles, arriving in the United States from a foreign port by water, land, or air. The Attorney General may issue regulations to implement the provisions of this section.

"(2) An employee of the Immigration and Naturalization Service who is required to perform services under this section shall be compensated for those services as follows:

"(A) Hours of work officially ordered or approved in excess of 40 hours in an administrative workweek or in excess of 8 hours per day shall be considered overtime. Overtime shall be compensated at a rate of pay equal to one and one-half times the hourly rate of basic pay of the employee, and shall be calculated and paid in 15-minute increments.

"(B) For overtime work which begins more than 2 hours before or after a regularly scheduled or previous overtime assignment, the employee performing such work shall be paid the greater of—

"(i) the sum of overtime pay calculated for the period of overtime actually worked in 15-minute increments and 2 hours overtime pay; or

"(ii) 4 hours overtime pay.

All overtime under this paragraph shall be paid as provided in paragraph (A).

"(C) For overtime work which begins within 2 hours before or after a regularly scheduled assignment or within 2 hours after a previous overtime assignment, the amount of overtime earned shall be calculated as if the employee had worked continuously—

"(i) to the beginning of such assignment (in the case of overtime work which begins within 2 hours before a regularly scheduled assignment); or

"(ii) from the end of such assignment (in the case of overtime work which begins within 2 hours after the end of a regularly scheduled assignment or a previous overtime assignment).

Overtime earned under this paragraph shall be paid as provided in paragraph (A).

"(D) Regularly scheduled work on Sundays and holidays shall not be considered overtime, and shall be compensated at a rate of pay equal to one and one-quarter times the hourly rate of basic pay of the employee. Overtime work as defined in paragraph (A) performed on Sundays and holidays shall be compensated as provided in that paragraph.

"(E) Compensation provided for under this section, other than that attributable to the hourly rate of basic pay, shall not be paid if payment would cause an employee's aggregate pay during any fiscal year to exceed the maximum rate of pay for GS–15 under section 5332 of title 5, United States Code.

"(3) Compensation shall be paid for services covered under this section solely in accordance with the provisions of this section and, to the extent not covered by this section, the applicable provisions of title 5, United States Code, and without regard to the provisions of section 207 of title 29, United States Code, except that compensation provided for under this section shall be in addition to, and not affected by, any holiday pay or premium pay for nighttime work authorized by law.

"(b)(1) Except as provided in section 53 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1741), the master, owner, agent, or consignee of such aircraft, vessel, vehicle, or merchandise who has requested or required any of the services provided for in subsection (a)(1) shall reimburse the Service, as determined by the Attorney General and pursuant to the procedures in paragraph (2) of this subsection. Reimbursement shall be required for all overtime payable under subsection (a)(2)(A) and all pay in excess of the rate of basic pay payable under subsection (a)(2)(D), in connection with any of the services provided for in subsection (a)(1). Such master, owner, agent, or consignee shall reimburse the Service for such pay that has been paid to an employee who has reported for duty whether or not the actual inspection or examination takes place.

"(2) The master, owner, or agent of such aircraft, vessel, or vehicle shall obtain a special license for unlading or lading during overtime, Sunday, or holiday hours pursuant to sections 450 and 452 of this title. Before any such special license to unlade or lade shall be granted, or before any application from a consignee of merchandise for overtime services shall be accepted, there shall be deposited sufficient money to pay, or a bond shall be required in an amount to be fixed by the Attorney General conditioned to pay, the compensation and expenses of the customs officers and employees assigned to duty in connection with the activities described in subsection (a)(1). In lieu of such deposit or bond, the owner or agent of any aircraft, vessel, or line of vessels or vehicles may execute a bond, in an amount to be fixed by the Attorney General, to cover and include the issuance of special licenses for the unlading or lading of such aircraft, vessels, or vehicles for a period not to exceed one year.

"(3) The provisions of paragraphs (1) and (2) of this subsection shall not apply to the owner, operator, or agent of a highway vehicle, bridge, tunnel, or ferry, between the United States and Canada or between the United States and Mexico, nor to the lading or unlading of merchandise, baggage, or persons arriving in or departing from the United States by motor vehicle, trolley car, on foot, or by other means of highway travel upon, over, or through any highway, bridge, tunnel, or ferry. As used in this paragraph, the term 'ferry' means a passenger service operated with the use of vessels which arrive in the United States on regular schedules at intervals of at least once each hour during any period in which customs service is to be furnished without reimbursement as provided in this subsection.".

(2) The table of contents for the Immigration and Nationality Act is amended by inserting after the item relating to section 293 the following new item:

"Sec. 294. Premium compensation for overtime; reimbursement of compensation.".

(c)(1) The Act entitled "An Act to provide extra compensation for overtime service performed by immigrant inspectors and other employees of the Immigration Service", approved March 2, 1931 (8 U.S.C. 1353a–b) is repealed.

(2) The Act of August 22, 1940 (8 U.S.C. 1353d) is amended by striking out "the Act of March 2, 1931 (46 Stat. 1467)" and inserting in lieu thereof "section 294 of the Immigration and Nationality Act".

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SEC. 203. The text of the Act entitled "An Act to enable the Secretary of Agriculture to furnish, upon a reimbursable basis, certain inspection services involving overtime work", approved August 28, 1950 (7 U.S.C. 2260), is amended to read as follows: "That this Act may be cited as the 'Agricultural Inspection and Quarantine Services Act of 1986'.

"DEFINITIONS

"SEC. 2. As used in this Act:

"(1) The term 'Secretary' means the Secretary of Agriculture.

"(2) The term 'Service' means the Animal and Plant Health Inspection Service of the Department of Agriculture.

"INSPECTION AND QUARANTINE SERVICES

"SEC. 3. This Act shall apply to employees of the Service performing inspection or quarantine services relating to imports into and exports from the United States.

"RATES OF OVERTIME COMPENSATION

"SEC. 4. (a) An employee of the Service who is required to perform services referred to in section 3 shall be compensated for such services in accordance with this section.

"(b)(1) Hours of work officially ordered or approved in excess of forty hours in a workweek (as defined by the Secretary), or in excess of eight hours per day, shall be considered overtime.

"(2) Such overtime work of an employee shall be—

"(A) compensated at a rate of pay equal to one and one-half times the hourly rate of basic pay of the employee; and

"(B) calculated and paid in fifteen-minute increments.

"(c)(1) In the case of overtime work which begins more than two hours before or after a regularly scheduled or previous overtime assignment, an employee shall receive—

"(A) two hours of overtime compensation for any work up to two hours in duration; and

"(B) overtime compensation for actual time worked for any work greater than two hours calculated in fifteen-minute increments.

"(2) An employee receiving overtime under this subsection shall receive two hours overtime compensation in addition to any other overtime compensation required under this section.

"(3) Any overtime compensation referred to in paragraph (1) shall be paid as provided in subsection (b).

"(d)(1) In the case of overtime work which begins within two hours before or after a regularly scheduled or previous overtime assignment, the amount of overtime compensation earned shall be calculated as if the employee had worked continuously to the beginning, or from the end, of the regularly scheduled or previous overtime assignment.

"(2) Any overtime compensation referred to in paragraph (1) shall be paid as provided in subsection (b).

"(e)(1) Regularly scheduled work on a Sunday or holiday by an employee—

"(A) shall not be considered overtime; and

"(B) shall be compensated at a rate of pay equal to one and one-quarter times the hourly rate of basic pay of the employee.

"(2) Overtime work referred to in subsection (b) which is performed on a Sunday or holiday shall be compensated as provided in such subsection.

"(f) Compensation under this section, other than compensation attributable to the hourly rate of basic pay of an employee, shall not be paid to an employee if such compensation would cause the aggregate pay of the employee during any fiscal year to exceed the maximum rate of pay for grade GS–15 prescribed under section 5332 of title 5, United States Code.

"(g)(1) Except as provided in paragraph (2), compensation for services covered under this section shall be paid—

"(A) solely in accordance with this section and, to the extent not prescribed by this section, the applicable provisions of title 5, United States Code; and

"(B) without regard to section 207 of title 29, United States Code.

"(2) Compensation for services covered under this section shall be in addition to, and not affected by, any holiday pay or premium pay for night work authorized by law.

"REIMBURSEMENT FOR SERVICES

"SEC. 5. (a) Except as provided in section 53 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1741), a person, firm, or corporation having ownership, custody, or control of a plant, plant product, or other commodity subject to inspection, laboratory testing, certification, or quarantine requiring the services of an employee of the Service shall reimburse the Secretary for such services in such amount and in such manner as is determined by the Secretary in accordance with section 4.

"(b) Reimbursement for any services referred to in section 3 shall be required for—

"(1) all overtime work referred to in section 4(b); and

"(2) all work compensated under section 4(e) in excess of the rate of basic pay of an employee.

"(c) If an employee reports for duty to a person, firm, or corporation to conduct an inspection or examination, such person, firm, or corporation shall reimburse the Secretary for compensation paid to such employee for such inspection or examination whether or not the actual inspection or examination takes place.

"REGULATIONS

"SEC. 6. The Secretary may issue such regulations as are necessary to carry out this Act.".

TITLE III—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 301. The provisions of this Act, and the amendments made by this Act, shall take effect on the date of enactment of this Act.

Union Calendar No. 265

98th Congress, 1st Session - - - - - - - - - - House Report No. 98-444

INTERIM REPORT ON THE WAR AGAINST DRUG SMUGGLING: THE SOFT UNDERBELLY OF THE UNITED STATES

FOURTH REPORT

BY THE

COMMITTEE ON GOVERNMENT OPERATIONS

OCTOBER 27, 1983.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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LETTER OF TRANSMITTAL

House of Representatives,
Washington, D.C., October 27, 1983.

Hon. Thomas P. O'Neill, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

Dear Mr. Speaker: By direction of the Committee on Government Operations, I submit herewith the committee's fourth report to the 98th Congress. The committee's report is based on a study made by its Government Information, Justice, and Agriculture Subcommittee.

Jack Brooks,
Chairman.

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Union Calendar No. 265

98TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
No. 98-444

INTERIM REPORT ON THE WAR AGAINST DRUG SMUGGLING: THE SOFT UNDERBELLY OF THE UNITED STATES

OCTOBER 27, 1983.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. BROOKS, from the Committee on Government Operations, submitted the following

FOURTH REPORT

BASED ON A STUDY BY THE GOVERNMENT INFORMATION, JUSTICE, AND AGRICULTURE SUBCOMMITTEE

On October 25, 1983, the Committee on Government Operations approved and adopted a report entitled "Interim Report on the War Against Drug Smuggling: The Soft Underbelly of the United States." The chairman was directed to transmit a copy to the Speaker of the House.

I. INTRODUCTION

The exact size and nature of the drug smuggling threat by air into the United States is not well defined, nor can it be with the limited indicators available to those agencies with the greatest interest. Even so, it is clear that drug smugglers have the flexibility of using diverse geographical routes and regularly do so with little organized opposition from law enforcement agencies.

There are basically two preferred air smuggling corridors leaving South America. The first, and most preferred, is from Colombia, through the Windward Passage, then to either the Bahamas or the Florida Peninsula. The second is from Colombia direct to Belize, then north into the Gulf of Mexico, where it splinters into many subordinate routes from Florida to Texas. There are often deviations from these two routes; however, the majority of illicit traffic seems to follow at least portions of these basic paths.

This interim report will discuss the policies, procedures, and equipment being arrayed against the air drug smuggler. It will also review the additional support that the Department of Defense (DOD) has provided civilian law enforcement agencies since the Committee's first interim report on this subject.[1]

While DOD has increased its attention to this major national problem with encouraging promise, the military's potential for participation remains far greater than its contribution to date. The continued lack of clearly presented enforcement objectives from the Federal law enforcement agencies has contributed to this deficiency.

There is a need for better tactical intelligence which would provide information to the interdicting agencies before they are suddenly face-to-face with a potential smuggler, or, far more commonly, before the smuggler has passed them by unnoticed.

Both the U.S. Customs Service and the Coast Guard, the two primary drug interdiction agencies, are severely limited in terms of manpower and modern equipment to dedicate to the drug war; so timely intelligence is critically important to the placement of their limited resources in the right place at the right time in order to maximize the probability of interdiction.

The Government Information, Justice, and Agriculture Subcommitte held 5 days of hearings[2] in 1983: February 25 and 26 in Miami, Florida; July 6 in New Orleans, Louisiana; July 7 in El Paso, Texas; and July 9 in San Diego, California. Among the principal witnesses appearing were: representatives of the Department of Defense, Departments of the U.S. Army, U.S. Navy and U.S. Air Force, the U.S. Coast Guard, the U.S. Customs Service, the General Accounting Office, the Drug Enforcement Administration, and State and local officials.

This is the Committee's second interim report and it is anticipated that because of the nature of the problem, further reports will be necessary.

The Committee would like to note the prompt attention with which the various agencies have assessed and implemented many of the recommendations of the first interim report.

II. FINDINGS

The Committee finds that:

GENERAL

1. The drug smuggling threat has overwhelmed this nation's capacity to contain it. Even in those areas where extraordinary emphasis has been placed, interdiction has been only marginally successful.

2. Geography and tradition have made Florida the preferred destination of drug smugglers from South America and the Caribbean,

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[1] Committee on Government Operations, "Military Assistance to Civilian Narcotics Law Enforcement: An Interim Report," H.R. Rep. No. 97-921, 97th Cong., 2d sess. (1982) [hereinafter cited as "1982 Interim Report"].

[2] "Review of the Administration's Drug Interdiction Efforts," hearings before a subcommittee of the House Committee on Government Operations, 98th Cong., 1st sess. (1983) [hereinafter cited as "Hearings"].

but other areas along the southwest border are also being victimized.

3. To be successful, any interdiction program directed against aircraft must be able to detect smuggler airplanes, intercept those airplanes, then arrive at the landing site in time to seize the contraband and arrest the violators.

4. The current FAA/NORAD radars are inadequate to meet the missions of U.S. Customs because they rarely detect low flying aircraft.

5. Efforts to date to respond to drug smuggling have been uncoordinated, inadequate and temporary.

6. Not all promises made to increase interdiction have been kept, nor have some of them even been reasonable.

7. The Vice President has attempted to provide the necessary national focus through the new National Narcotics Border Interdiction System (NNBIS).

U.S. CUSTOMS SERVICE

8. Customs cannot regularly perform any of the three functions described in Finding 3 in any of its regions.

9. Customs lacks leadership and coordination at the national level which could implement a program which responds to the current threat.

10. Customs receives a totally inadequate amount of tactical intelligence concerning drug traffickers. Almost all seizures made by Customs are "cold hits."

11. Customs lacks adequate interdiction resources, such as radars and aircraft.

12. Customs does not, in practice, support DEA's El Paso Intelligence Center (EPIC) in terms of submitting information on a timely basis.

13. Customs and the FAA changed aircraft reporting requirements in the Florida area, but the changes are of limited benefit because they are largely unenforceable due to lack of radars which would pick up violators.

DEPARTMENT OF DEFENSE

14. The prohibition against participation of the military in civilian law enforcement has been relaxed, but the prohibition remains in force in the event that such use would affect the combat readiness of the assets involved. These legal limits have already been strained, and on some occasions, possibly exceeded, in efforts to support interdiction operations.

15. Military assets, particularly Navy E-2C and Air Force E-3A radar aircraft, have proved effective but can fulfill this need only on a temporary basis. If utilized as the core of interdiction planning by being employed in a dedicated role in support of civilian drug interdiction operations, such use would clearly violate statutory restrictions. The military services derive little or no training benefit from such dedicated missions.

16. A promising solution for military assistance appears to be the loan of available military equipment to civilian agencies, with maintenance and operation cost paid by civilian agencies.

17. Military assets which have been available have not always been properly coordinated and used, as was demonstrated by the nonuse of available AWACS training missions in threat areas.

18. There still is no adequate uniform mechanism or procedure for State/local law enforcement authorities to request military assistance.

INTELLIGENCE

19. There is a severe shortage of tactical (border interdiction oriented) intelligence gathered by DEA overseas, even though it is clearly DEA's responsibility to do so. Customs does a poor job of distributing that which is received.

20. EPIC is underutilized as a tactical intelligence analytical and distribution center with regard to border interdiction operations.

21. NNBIS shows great potential to provide coordination between participating interdiction agencies, but it is too early to make a definitive evaluation.

STATE DEPARTMENT

22. The State Department deemphasizes providing interdiction support to drug transit nations, even though the Department is the only agency authorized to do so.

III. RECOMMENDATIONS

The Committee recommends that:

GENERAL

1. The National Narcotics Border Interdiction System (NNBIS), conduct a comprehensive analysis of the national narcotics smuggling threat, to include all relevant agencies, and make recommendations concerning funding, jurisdiction, and equipment needs. This analysis should be submitted to the Congress no later than April 30, 1984.

U.S. CUSTOMS SERVICE

2. The equipment deficiencies in the Customs Service be corrected as soon as possible, with a view toward obtaining the equipment recommended in this report.

3. Customs headquarters centralize its operational planning responsibility for drug interdiction while decentralizing authority for executing interdiction operations.

4. Customs develop and implement an intelligence program which insures rapid and timely dissemination of such information to the user. This plan must insure that EPIC is provided such intelligence data as may become available.

5. Customs and FAA implement a plan to utilize the radar support provided by the Air Force radar aerostats and other detection assets in Florida to insure better compliance with their aircraft reporting requirements.

6. Customs coordinate closely with DOD to make the best possible use of scheduled training flights for radar aircraft.

DEPARTMENT OF DEFENSE

7. The Navy and Air Force, where possible, consider the needs of U.S. Customs when devising training schedules for E-2C and E-3A radar aircraft, as authorized by DOD Directive 5525.5.

8. DOD expedite, where possible, the delivery of aircraft and other equipment identified as meeting the requirements of U.S. Customs for drug interdiction.

9. DOD, in conjunction with appropriate law enforcement agencies, devise and implement a simple, clearly defined procedure through which civilian agencies can request, and DOD can consider, requests for assistance.

INTELLIGENCE

10. EPIC be reinforced in personnel and policy to enhance its role as the centralized intelligence processor for the interdiction community.

11. DEA place a higher priority on the gathering of interdiction-related information by its agents stationed abroad. This information must be transmitted to EPIC on a timely basis in order to insure prompt receipt by the user agencies.

STATE DEPARTMENT

12. The State Department reconsider its reluctance to provide direct assistance to high-volume transit nations, particularly the Bahamas, in order that as much contraband as possible be interdicted before it reaches the U.S. mainland.

IV. Discussion

CUSTOMS AIR INTERDICTION CAPABILITIES BY REGION

For an air interdiction program to be successful it must contain three essential interrelated capabilities. They are: detection, interception, and seizure/arrest. Without the ability to regularly and reliably perform all three of these elements the program will surely fail. For example, sophisticated detection radar is useless if there is no capability to intercept aircraft that are detected, or to seize the drugs and arrest the traffickers.

To detect the smuggler Customs relies on radars, ground sensing equipment, and individual sightings. The high- and mid-altitudes are scanned by the radars of the Federal Aviation Administration (FAA), and the North American Air Defense Command (NORAD). These facilities can detect the smuggler who flies in that upper altitude environment, but their utility in support of the Customs mission is limited because the smuggler usually understands and avoids the FAA/NORAD coverage by flying at low altitudes which they cannot cover. He knows that as long as he flies at low altitude and remains a reasonable distance from the actual radar site, he is assured of an undetected border penetration.

President's Commission on Organized Crime

Report to the President
and the
Attorney General

AMERICA'S HABIT:
Drug Abuse, Drug Trafficking, and Organized Crime

1986

PRESIDENT'S COMMISSION ON ORGANIZED CRIME

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Honorable Potter Stewart*
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Phyllis T. Wunsche

James D. Harmon, Jr.
Executive Director and Chief Counsel

---

*Deceased December 7, 1985

** Commissioners Rodino and Thurmond have abstained from approval of the recommendations contained herein.

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Honorable Ronald Reagan
President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

Pursuant to Executive Orders 12435 and 12507, as well as Public Law 98-368, I present the final report of the President's Commission on Organized Crime. In the thirty-two months that have passed since you appointed the Commission and designated me as Chairman, we have carried out your mandate to explore the nature, scope and extent of organized crime in the United States. The task was an arduous one. We held public hearings in different regions of the country and symposia on topics related to organized crime. We also submitted interim reports on money laundering, labor racketeering, and other issues.

Throughout this process, the Commission emphasized several recurring themes. First, organized crime continues to grow and occasionally to thrive despite past efforts to eradicate it. Organized criminal groups change and adapt to new social, economic and legal conditions, maintaining institutional survival even as individual members or leaders are apprehended and incarcerated. Moreover, new organized crime groups are emerging to follow in the footsteps of their more widely publicized predecessors. In light of the persistent presence and changing nature of organized crime, the comprehensive nationwide examination you asked us to undertake--the first of its kind in over thirty years--was clearly necessary. As we present our final report, I would like to express my hope that our work will vindicate the confidence you expressed when you created the Commission.

Portions of our final report will be publicly released throughout the month of March, prior to termination of the Commission on April 1. The section on narcotics trafficking is being presented first to emphasize the profound and unparalleled importance of the problem. As our report makes clear, drug trafficking is the single most serious organized crime problem confronting this country. It is pervasive, affecting all segments of society. In addition to the debilitating effects illegal drugs have on our nation's social and physical well-being, the cultivation, distribution, and sale of these substances provide organized crime with its largest source of income. Moreover, drug trafficking stands apart from all other organized criminal activity in terms of its implications for the national security of many of our allies and neighbors in the international community, and for our own as well.

No attempt to eliminate organized crime from this country can possibly be complete without a concerted nationwide campaign to reduce the demand for narcotics in the United States. Our recommendations for such a campaign, described in greater detail in the report, form a necessary complement to existing efforts to reduce the availability of illicit drugs through such programs as interdiction and source country eradication. Our proposals for a coordinated strategy against drugs are consistent with previous recommendations in our money laundering and labor racketeering reports for formulating a coherent national strategy against organized crime.

The Commission has repeatedly stressed the importance of increasing public awareness as a prerequisite to any attempt to eliminate organized crime. The private sector contributes to the ability of organized crime to flourish, whether through drug purchases, unethical attorneys' exploitation of the criminal justice system to protect criminal cartels, banks' failure to monitor money laundering transactions, or other actions. Although we recommend vigorous governmental efforts against organized crime, we also believe that all citizens have a role to play in destroying the power of criminal organizations.

On behalf of the entire Commission, I am grateful for the personal interest you have shown in our work throughout our tenure. Your efforts to strike at the very heart of organized crime have been unparalleled. The challenge of eliminating organized crime from our society is a great one, but its importance for the future is greater. As the Commission concludes its work, it is my hope that we have made a contribution to meeting this challenge.

Sincerely,

Irving R. Kaufman

Irving R. Kaufman
Chairman

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INTERDICTION

1. Within the overall structure of the National Drug Enforcement Policy Board (the Board), the Vice President's role as leader and coordinator of interdiction efforts should be recognized, maintained, and strengthened.

2. A proper and realistic goal of our interdiction efforts should be the maintenance of persistent pressure on drug

traffickers, both as a deterrent and as a symbol of national determination. Operational and policy decisions should reflect that measure of success and specifically reject any less realistic or effective goal.

3. Both Congress and the Board should carefully evaluate the technical capabilities and equipment of drug smugglers. To the extent that law enforcement agencies' capabilities and equipment are inferior to those of drug traffickers, immediate steps should be taken to rectify the situation.

4. All Federal agencies having any responsibility for the regulation of air, sea, or land travel into or out of the United States should review their policies and practices and ensure that no purpose other than the promotion of public safety is given priority over the effort to combat drug trafficking. To this end, the proposed "Customs Enforcement Act of 1985" should be enacted promptly.

5. The Policy Board should carefully examine the regulatory practices of the Federal Aviation Administration, particularly in the field of aircraft modification, to determine whether possibilities exist for more aggressive anti-smuggling efforts. In addition, the Policy Board should carefully monitor the design of the Federal Aviation Administration's approach radar system to ensure that interdiction capabilities and opportunities are maximized.

6. Diplomatic initiatives should be pursued immediately to facilitate Customs pursuit of suspected airborne drug traffickers into Mexican air space. Such efforts should be given the highest priority in our bilateral relations with Mexico, including the Western Hemisphere discussions agreed upon between the Presidents of the United States and Mexico on January 3, 1986.

7. The Policy Board should thoroughly evaluate expanded use of Coast Guard aviation capabilities in drug interdiction.

8. Congress should give careful consideration to user fees as a means of supplementing the Coast Guard's budget. Fees should go directly to the Coast Guard's budget rather than the general Treasury.

9. Both the Policy Board and the Department of Defense should continue to examine Navy assistance to Coast Guard interdiction operations, with a view to expanding such assistance whenever and wherever possible. Such expansion should be facilitated by adoption of the broader military view of national security advocated in this report.

10. Monies from the proposed permanent asset forfeiture fund should be made availabe to the Customs Service for the acquisition of necessary equipment, including but not limited to the type of fast patrol boats recently deployed in Operation Blue Lightning.

11. Joint Federal-State-local interdiction operations, such as Operation Blue Lightning, should be refined and used wherever feasible and desirable.

INTELLIGENCE

1. The Policy Board should take all necessary steps to ensure that data concerning all aspects of both drug supply and demand are adequately collected, analyzed, correlated and disseminated.

2. The Federal electronic surveillance statute should be examined and amended to reflect existing technology. Existing State laws should be similarly studied and changed where necessary. Those States still without a statute permitting court-ordered electronic surveillance should immediately enact one, consistent with current technology.

3. The "Mansfield Amendment" to the Foreign Assistance Act of 1961 (22 U.S.C. 2291 (c)(1)) should be repealed in its entirety. The concerns addressed by that legislation should be incorporated in agency guidelines which provide necessary flexibility while embodying the limits of permissible U.S. agency conduct.

4. Data relating to assets forfeited to Federal, State and local jurisdictions should be collected, analyzed, and disseminated by the all source intelligence center discussed elsewhere in this report.

5. Because of the importance of information about individuals in drug treatment programs, the Federal government should again require the States to participate in the Client Oriented Data Acquisition Process.

6. Both the Household Survey on Drug Abuse and the High School Senior Survey should oversample populations thought to be heavy drug users. In addition, because questions about the nature of drug transactions, e.g., the price paid and purity and quantity of the drug purchased, could provide important information for policymakers and enforcement officials, such questions should be added to the Household and High School Senior Surveys.

COMBINED INTELLIGENCE AND INTERDICTION

1. The Policy Board should take immediate steps to ensure that the law enforcement and intelligence communities are thoroughly familiar with each other's needs and capabilities.

2. Every agency involved in the interdiction of drug shipments or the apprehension of drug traffickers should have

ready access to all necessary intelligence gathered in source and transshipment countries. To the extent that this requires expansion or modification of existing practices, the Policy Board should ensure that such change is pursued immediately. In particular, the critical nature of real-time intelligence to effective Customs operations at the border must be recognized, and the Policy Board should take all necessary steps to ensure that, under current Federal organization, such information from all sources is being provided.

3. To the extent that the intelligence community under the current Federal structure needs direction from the highest levels of government concerning aggressive anti-drug actions, including operations against the infrastructure of foreign drug-trafficking organizations, such direction should be provided immediately.

4. The "all-source intelligence and operations center," now being considered by the National Drug Enforcement Policy Board, should be pursued aggressively and expeditiously. It should combine in a physically secure facility the functions now being performed by EPIC and NNBIS, retaining the current Vice Presidential direction and regional structure of the latter for interdiction functions. Ft. Bliss, Texas, and similar locations should be considered as possible sites for the center. Its design, giving due consideration to the protection of civil liberties, should provide specific roles for all pertinent Department of Defense components and for all members of the

intelligence community, to the fullest extent permitted by Executive Order 12333. The design should also incorporate specific foreign intelligence-gathering functions for other U.S. agencies, in order to maximize the acquisition of both strategic and tactical data. Each participating agency should be required to present to the Policy Board its specific operational guidelines for providing time-sensitive data to the center. The center should also include a uniform national system for gathering and analyzing drug-related data on various categories of information, including arrests, seizures, convictions, sentences, forfeitures, emergency room admissions, and deaths. A similar system of compiling and analyzing financial data gathered by all members of the intelligence community, as well as that contained in all financial records now required by law to be kept by any Federal agency, should also be included as an integral component of the center. Both data bases should be compiled and maintained in a fashion that provides reliable, constant, and uniform tracking, retrieval, and compilation for the purposes of charting trends and profiles, as well as support for specific operations whenever possible. Access to all data compiled should be available to appropriate State and local agencies, in addition to Federal components, subject to procedures necessary to ensure the integrity of the information-sharing process.

5. Joint enforcement and intelligence operations by source and transshipment countries should be encouraged, and careful, resourceful analysis should be given to identify means of U.S.

funding of such operations. Consistent with other recommendations in this report, participation in such operations by American components should be promoted.

6. The Department of State should stress to Chiefs of Mission at principal reporting posts and to all other cognizant Departmental personnel the high priority attached to a coordinated narcotics intelligence and interdiction strategy.

7. All necessary steps should be taken to ensure that Consular officers can and do deny U.S. entry visas to individuals suspected of drug trafficking. Subject to the informing agency's safeguards of reliability, information provided by any agency of the United States, without further corroboration, should be sufficient to require such denial under the pertinent statute, 8 U.S.C. §1182 (a)(23). The Policy Board should promptly establish guidelines for similar information-sharing on a government-wide basis.

8. Both Congress and the Executive Branch should closely examine the operations and cost effectiveness of drug-related intelligence-gathering abroad. When and where justified by such an examination, resources available for such operations should be expanded. Particular attention should be paid to the critical need for adequate foreign intelligence by the Customs Service in performing its border interdiction function.

9. Coast Guard officers should be thoroughly integrated into the Defense Attache system.

10. The definition of "national security" now employed by the Joint Chiefs of Staff as their starting point in mission determination is:

> A collective term encompassing both national defense and foreign relations of the United States. Specifically, the condition provided by:
>
> a. a military or defense advantage over any foreign national or group of nations, or
>
> b. a favorable foreign relations position, or
>
> c. a defense posture capable of successfully resisting hostile or destructive action from within or without, overt or covert.

The Joint Chiefs should be instructed by the highest levels of government, through a National Security Decision Directive or by other appropriate means, that "hostile or destructive action from within or without, overt or covert," as used in this definition, shall include the airborne, amphibious, and overland invasion of this country by drug smugglers. This policy is already followed by the intelligence community, pursuant to Executive Order 12333. All Department of Defense and component operational decisions concerning interdiction of drug smugglers should be made accordingly.

11. For the purposes of intelligence-gathering mission planning, the Joint Chiefs of Staff should be given direction from the highest levels of government that the Defense Department's definition of "foreign hostile action" is to be brought into accord with the view expressed in Executive Order 12333, as described in the preceding recommendation.

12. Consistent with the foregoing definitions of "national security" and "foreign hostile action," Department of Defense policies and practices, such as existing interpretations of the Economy Act, 31 U.S.C. §1535, and exemptions to the Posse Comitatus Act, 10 U.S.C. §371 et seq., should be thoroughly re-examined. Unit planning and deployment should be adjusted accordingly.

13. The Posse Comitatus Act, 18 U.S.C. §1385, and its 1981 exemptions, now found at 10 U.S.C. §371 et seq., should be consolidated in Title 18. The consolidated statute should include a statement of purpose reflecting the view of national security advocated here and promoting an accordingly expansive interpretation of the statutory language, subject to such limitations as are necessary to protect civil liberties.

14. The Policy Board, in accordance with Executive Orders 12333 and 12472, and with applicable National Security Decision Directives, if any, should coordinate with appropriate agencies and departments to ensure that a secure and interoperable,

interagency communications capability is available for drug-related intelligence collection and dissemination in support of interdiction and other anti-drug activities. The resources and expertise of the National Security Agency should be fully exploited to this end, and operational and communications security should be given a high priority in the training and operating procedures of all pertinent agencies.

DOMESTIC INVESTIGATIONS AND PROSECUTIONS

1. Domestic drug law enforcement efforts directed at high-level trafficking groups should be supplemented by and integrated with enforcement efforts directed at lower-level trafficking groups and street-level drug activity. Unless the necessary supplementation and integration occur, the enforcement effort at all levels will be undermined.

2. Although the enforcement efforts of Federal and State and local law enforcement agencies cannot and should not be completely independent, these agencies nevertheless have primary areas of responsibility. The Federal law enforcement agencies should concentrate their efforts on infiltrating and disrupting high-level organized crime and other large trafficking organizations. State and local law enforcement agencies on the other hand should focus their resources on street-level drug activity and on smaller and geographically-restricted trafficking organizations.

3. Although Federal, State and local agencies have primary areas of responsibility, the drug problem is a national one that requires extensive and genuine coordination and cooperation among all agencies. Those in charge of the agencies involved in domestic drug law enforcement must constantly instill in their agents the need for such coordination and cooperation, especially with respect to the exchange of drug intelligence. Joint operations, such as Operation Pressure Point, the New York Drug Enforcement Task Force, and the Organized Crime Drug Enforcement Task Force Program, have fostered this required spirit of cooperation and coordination, and they should be undertaken whenever appropriate, provided that they do not interfere with an agency's primary mission.

4. The sophistication of high-level trafficking groups requires an equivalent Federal response. Because of the variety of investigative techniques used by participating Federal agencies and their unique ability to exploit such tools as electronic surveillance, the Racketeer Influenced and Corrupt Organizations Act (RICO), the Continuing Criminal Enterprise statutory provision (CCE), forfeiture, and currency transactions reports, the Organized Crime Drug Enforcement Task Force (OCDETF) Program is the Federal mechanism that is best equipped to respond to and disrupt high-level organized crime trafficking groups. Its operation should be supported strongly and its scope should be expanded wherever feasible and desirable.

5. Because the OCDETF Program has been operational for more than two years, the National Drug Enforcement Policy Board should consider whether a lead Task Force agency should be designated. As an alternative, the U.S. attorneys involved should be given greater policy authority with respect to the participating agencies in order to improve still further the coordination that has been achieved by the consensus-based decision-making approach. If the latter approach is taken, the Board must take steps to ensure uniform policies and priorities are recognized by all United States Attorneys involved.

6. The heads of the agencies participating in the OCDETF Program must continually and unambiguously reiterate their total commitment to the success of the program. One simple way they can do so is to ensure that their agents involved in the Program are not affected adversely in any way with respect to career advancement by their participation therein.

7. The components of Federal domestic law enforcement other than the OCDE Task Forces should focus their resources on organized crime trafficking groups that do not qualify for OCDETF Program treatment and on other large trafficking organizations, which may or may not be multi-jurisdictional.

8. To eliminate jurisdictional disputes between the Federal agencies involved in domestic law enforcement, to avoid duplication of investigative efforts, and to increase the safety

of drug agents, the National Drug Enforcement Policy Board should establish a system whereby agencies would be required to file reports on whom they are investigating. If more than one agency is investigating the same individual, the agencies involved would be required to negotiate and to determine the best way for proceeding with the investigation, subject to uniform Policy Board guidelines. Such a reporting and control system should be incorporated into the "all source intelligence and operations center" recommended elsewhere in this report.

9. It is an appropriate time to consider whether the mission of the Customs Service with respect to drug trafficking should be expanded to include intelligence and law enforcement functions beyond the borders and ports of entry within this country, where appropriate, subject to the lead responsibility of the Drug Enforcement Administration (DEA).

10. DEA should determine which chemicals currently used to manufacture illicit drugs should be subject to reporting requirements or placed in a Schedule established by the Controlled Substances Act. This review should include a consideration of which drugs are most abused, which have the most serious consequences, which precursor chemicals are essential to the production process, and which chemicals could feasibly be regulated. In addition, DEA should identify the resources needed for the computerization, analysis, and follow-up of reports concerning chemicals selected for monitoring.

11. The research and development operations of Federal drug law enforcement agencies should work closely with their field agents to produce the equipment and tools necessary to defeat traffickers. The expertise of the Central Intelligence and National Security Agencies should be called upon to the fullest extent possible and proper in this regard.

12. Although the drug problem is a national one, its immediate effects are felt most at State and local levels. To respond effectively to the drug problem, State and local jurisdictions will have to increase expenditures for such critical resources as prison facilities, increased manpower, and sophisticated equipment.

13. States must provide their law enforcement agencies with certain tools available to their Federal counterparts. Those States, which do not already have such statutes, should consider enacting legislation patterned after the following Federal statutes: Bail Reform Act of 1984; the Racketeer Influenced and Corrupt Organizations (RICO) Act; statutory use and derivative use immunity for witnesses; statutory criminal and civil forfeiture provisions; the Continuing Criminal Enterprise (CCE) statute; Title III of the Omnibus Crime Control and Safe Streets Act of 1968 (electronic surveillance); and the Currency and Foreign Transactions Reporting Act. States should consider adopting statewide grand juries in order to improve their

investigations of drug trafficking organizations, as well as eliminating accomplice corroboration statutes or rules.

100th Congress
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LEGISLATION AIMED AT COMBATING INTERNATIONAL DRUG TRAFFICKING AND MONEY LAUNDERING

A STAFF REPORT

PREPARED FOR THE USE OF THE

SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

OCTOBER 1987

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FOREWORD

The Senate Caucus on International Narcotics Control is authorized and directed to "monitor and promote international compliance with narcotics control treaties" and to "encourage United States Government and private programs seeking to expand international cooperation against drug abuse and narcotics trafficking." In addition, the Caucus is charged with periodically reporting to the Senate on international narcotics control matters. This report was prepared to assist the Caucus in fulfilling these statutory responsibilities.

In response to the ever-increasing problem of international drug production and trafficking, Congress has passed numerous statutes aimed at stemming the flow of illicit drugs on the international market. These statutes range from a requirement that the Agency for International Development prioritize development programs that are linked to narcotics control efforts, to a forfeiture provision that allows for the sharing of proceeds with foreign governments who cooperate with the U.S. Government on law enforcement operations. Many of these statutes have important foreign policy ramifications, and they form the cornerstone of the U.S. Government's international narcotics control effort. A clear understanding of these statutes is essential in assessing the effectiveness of current U.S. narcotics control policy, as well as determining what additional steps could be taken to improve this policy.

This report, prepared by staff consultant Joseph A. Cari, Jr., provides an analysis of these statutes. This analysis, and the accompanying reference materials, should greatly assist the Caucus and the Senate in carrying out their important responsibilities in the area of international narcotics control.

JOSEPH R. BIDEN, Jr., *Chairman.*

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LEGISLATION AIMED AT COMBATING INTERNATIONAL DRUG TRAFFICKING AND MONEY LAUNDERING

I. INTRODUCTION

The thrust of recent legislative action aimed at international crime has focused on drug trafficking and money laundering. Going hand in hand with efforts to combat these types of international crime has been both legislative and executive attempts to increase international cooperation in gathering evidence against and prosecuting those involved in such international criminal activity. This report provides an overview of recent legislation aimed at combating international crime, as well as executive action in the form of recently negotiated and ratified mutual legal assistance treaties. This report will also address what further steps might be taken to ameliorate problems related to international crime.

A. THE INTERNATIONAL CRIME PROBLEM

The President's Commission on Organized Crime found drug trafficking to be the most serious crime problem in the world today. The illicit production, trafficking and abuse of drugs is international in scope, and results in violence, corruption and even, in some cases, political instability in major source countries.[1]

Money laundering is another international problem which is closely related to drug trafficking. Laundering schemes provide the conduits for financing narcotics ventures, as well as conceal the source of narcodollars to make them appear legitimate.[2] While it has been recognized for some time that a collateral attack on the proceeds of narcotics trafficking is an effective way to hinder trafficking itself, efforts to uncover money laundering schemes have not always been successful. Many foreign governments historically have been less than cooperative with the attempts of United States law enforcement officials to trace funds into foreign banks.[3] Many countries are protective of their status as tax shelters, and allow bank secrecy laws to hinder efforts of law enforcement to trace funds in their banks.[4]

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[1] President's Commission on Organized Crime, "America's Habit: Drug Abuse, Drug Trafficking and Organized Crime," (March 1968) at 1 (hereinafter cited as Commission on Organized Crime (1986)).

[2] U.S. Department of International Narcotics Matters, "International Narcotics Control Strategy Report" (March 1987) at 341. (hereinafter cited as Narcotics Control Report).

[3] *Id.* at 350–351.

[4] For an in-depth discussion of the law enforcement problems creeated by bank secrecy laws in foreign jurisdictions, *see* Weiland, "Congress and the Transnational Crime Problem", 20 *Int'l Law* 1025, 1026–1033 (Summer 1986).

B. LEGISLATIVE AND EXECUTIVE ACTION AIMED AT COMBATING INTERNATIONAL CRIME

The following legislation directed at narcotics trafficking and money laundering is reviewed in this report:

1. Legislation Aimed at the Elimination of International Drug Production and Trafficking—
   - a. Foreign Assistance Act of 1971, P.L. 92-226, Part I, Section 109, 86 Stat. 20.
   - b. Trade Act of 1974, P.L. 93-618, Title V, 88 Stat. 1978.
   - c. International Development Cooperation Act of 1979, P.L. 96-53, Section 110, 93 Stat. 359, 363.
   - d. Caribbean Basin Economic Recovery Act, P.L. 98-67, Title II, Subtitle A, 97 Stat. 384.
   - e. International Narcotics Control Act of 1985, P.L. 99-83, Title VI, 99 Stat. 190, 228.
   - f. Narcotics Control Trade Act, P.L. 99-570, Title IX, 100 Stat. 3207-164.
   - g. International Narcotics Control Act of 1986, P.L. 99-570, Title II, 100 Stat. 3207-60.
   - h. National Drug Interdiction Improvement Act of 1986, P.L. 99-570, Title III, 100 Stat. 3207-73.
2. Legislation Aimed at Laundering of Drug-Related Proceeds and Penetrating Foreign Bank Secrecy—
   - a. Currency and Foreign Transactions Reporting Act, P.L. 91-508, Title II, 84 Stat. 1305.
   - b. Caribbean Basin Economic Recovery Act, P.L. 98-67, Title II, Subtitle B, 97 Stat. 395.
   - c. Comprehensive Crime Control Act of 1984, P.L. 98-473, Title II, Chap. IX, 98 Stat. 2135.
   - d. International Narcotics Control Act of 1985, P.L. 99-83, Title VI, Section 619, 99 Stat. 190, 228.
   - e. Money Laundering Control Act of 1986, P.L. 99-570, Title I, Subtitle H, 100 Stat. 3207-18.
   - f. Narcotics Control Trade Act of 1986, P.L. 99-570, Title IX, 100 Stat. 5217.
   - g. International Narcotics Control Act of 1986, P.L. 99-570, Title II, Section 2005, 100 Stat. 3207-16.

In addition, several mutual legal assistance treaties will be discussed as examples of treaties intended to aid the efforts of States law enforcement officials to trace money laundering through the cooperation of foreign governments.

II. LEGISLATIVE EFFORTS TO HALT INTERNATIONAL DRUG PRODUCTION AND TRAFFICKING

A. THE FOREIGN ASSISTANCE ACT OF 1971

Over 15 years ago, Congress pinpointed the elimination of narcotics trafficking as a high priority item of U.S. foreign policy.[5] After recognizing the problem, Congress proposed a solution—tying foreign assistance to a country's efforts to control the illegal flow of leader Carlos Lender.[47] The Secretary of State is urged to continue to update existing extradition treaties or negotiate new ones, to prevent major drug traffickers from escaping prosecution.[48]

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[5] S. Rep. No. 432, 92nd Cong., 2d Sess.

Section 2009 of the Act broadens the ability of United States law enforcement personnel to be present at foreign narcotics raids under the Foreign Assistance Act of 1961. The International Narcotics Control Act of 1985, as discussed above, allowed such participation for the first time where the Secretary of State and the government of that country had agreed to it.[49] This amendment proved to be unworkable, since most countries refused to enter into such agreements publicly. In addition, some governments were willing to permit such activities only on a case-by-case basis.[50]

Thus, the 1986 amendment allows the presence of U.S. officials at foreign narcotics raids where the Secretary of State determines it would be in the national interest of the United States and would not be harmful to U.S. relations with that country. Further, United States law enforcement officials may assist foreign officers who are effecting an arrest.[51]

One significant omission from this Act is any mention of the Cuban problem, which was a concern of the International Narcotics Control Act of 1985, as discussed above. Cuban tolerance of narcotics trafficking through its air space and aid to maritime smuggling remains a problem, as the country is situated along the primary illicit drug smuggling routes into the United States.[52]

H. THE NATIONAL DRUG INTERDICTION IMPROVEMENT ACT OF 1986 AND THE NATIONAL ANTIDRUG REORGANIZATION AND COORDINATION ACT

The Anti-Drug Abuse Act of 1986 contains two titles relating to the interdiction of illicit drugs: the National Drug Interdiction Improvement Act of 1986 [53] and the National Anti-Drug Reorganization and Coordination Act.[54]

Interdiction is the effort to intercept or deter the shipment of illegal drugs from foreign countries to the United States. Interdiction focuses on drugs in transit to the U.S. border, including both those shipments concealed in legitimate commerce that seek to pass through ports of entry and those that attempt to penetrate the border surreptitiously in private aircraft, boats and land vehicles or carried by persons on foot.[55] There are several Federal agencies which have responsibility for drug interdiction. The Coast Guard and the Customs Service have primary responsibility for border interdiction. The Coast Guard focuses on identification and interdiction of maritime drug smuggling, principally by private seagoing vessels. The Coast Guard focuses major drug law enforcement efforts on the open seas, although it also conducts patrols and makes seizures near the shore where it has concurrent jurisdiction with the Customs Service.[56] The Customs Service has primary interdiction responsibility for drugs smuggled through official ports of entry and by general aviation, and has concurrent jurisdiction with the Coast Guard in coastal waters up to 12 miles offshore.[57]

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[47] Narcotics Control Report at 359.

[48] H.R. Rep. No. 798 at 8.

[49] Pub. L. No. 99-83, § 605, 99 Stat. 441.

[50] H.R. Rep. No. 798 at 9-10.

[51] *Id.*

[52] Narcotics Control Report at 15.

[53] Pub. L. No. 99-570, § 3001 *et seq.*, 100 Stat. 5126.

[54] Pub. L. No. 99-570, § 7001 *et seq.*, 100 Stat. 5213. While this title is not addressed solely to interdiction, it is clear that one of the problems this title is meant to address is lack of coordination among agencies responsible for interdiction.

[55] U.S. Congress, Office of Technology Assessment, "The Border War on Drugs", OTA-0-336 (March 1987) at 1 (hereinafter cited as Office of Technology Assessment).

The Drug Enforcement Agency also has a major drug interdiction role. The DEA is primarily responsible for investigating drug-related operations and for collecting drug-related intelligence information. Its responsibilities related to border interdiction include gathering, analyzing, and providing intelligence, and investigating the drug smugglers once caught.[58] The focus of the DEA is different from that of the Coast Guard and Customs Service: the DEA focuses on convictions rather than immediate interdictions. For example, the DEA may sometimes allow shipments to enter the country so that it can follow their movement and obtain evidence against the leaders of the drug smuggling organizations. These differing goals can create conflicts between the activities of the DEA and the border interdiction agencies.[59]

There are still other Federal agencies which have a role in drug interdiction. The Border Patrol has no specific statutory authority for interdiction, but often intercepts drugs and smugglers in the course of performing its normal duties.[60] The Department of Defense provides support to the Coast Guard and Customs Service by sharing intelligence, providing aircraft and equipment, and assisting in certain seizure operations. DOD aircraft fly regular surveillance missions to detect potential smugglers, and Navy ships often carry Coast Guard Tactical Law Enforcement Teams to board suspect vessels.[61]

For several years, critics have maintained that the fragmentation of interdiction responsibility and lack of coordination among all these agencies, has seriously hindered Federal drug interdiction efforts.[62] In March 1986, the President's Commission on Organized Crime also reported that "the single most important need in the interdiction field is leadership." [63] According to the Commission, the National Drug Enforcement Policy Board failed to assert a clear leadership role.[64] Furthermore, a March, 1987 report by the Office of Technology Assessment found this lack of coordination to still be a serious problem. This study found that Federal drug interdiction efforts suffer from a lack of clear direction, and that fragmented jurisdictional responsibilities are a major impediment to improving interdiction activities.[65]

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[56] *Id.* at 34.

[57] *Id.* at 35.

[58] *Id.* at 33.

[59] *Id.*

[60] *Id. at 37.*

[61] *Id. at 38.*

[62] Comptroller General's Report to the Congress of the United States, "Federal Drug Interdiction Efforts Need Strong Central Oversight", GAO/GGD-83-52 (June 13, 1983) (hereinafter cited as Comptroller General's Report).

[63] Commission on Organized Crime (March 1986) at 364.

[64] *Id.* at 333.

[65] Office of Technology Assessment at 51-52.

The Anti-Drug Abuse Act of 1986 does not go far enough to address this problem. In fact, the National Drug Interdiction Improvement Act of 1986 may exacerbate the problem by contributing to the overlapping jurisdiction of the various Federal agencies with interdiction responsibilities. The major provisions of this Act are as follows:

1. It appropriates funds to DOD for the enhancement of drug interdiction. These funds are to provide aircraft and helicopters to the Coast Guard and Customs Service for interdiction purposes.
2. It authorizes the assignment of additional Coast Guard personnel to active duty on Navy ships.
3. It authorizes the study by DOD of how it can further aid the civilian law enforcement agencies' interdiction efforts, including improved surveillance and intelligence.[66]
4. It significantly increases the manpower and equipment of the Customs Service.[67]
5. It gives the Customs Service an increased ability to control aviation smuggling by means of new anti-air smuggling provisions which penalize the recent phenomenon of air drops of contraband to vessels in international waters.[68]
6. It revises the customs laws to require immediate reporting to the Customs Service of the arrival of vessels from foreign waters. Prior law only required reporting within 24 hours. The law now allows the Customs Service to concentrate its enforcement activities on conveyances failing to report immediately on the assumption that they are likely to be involved in smuggling.[69]

The Act was intended to respond to the perceived serious problem of illegal drug smuggling. Congress believed that interdiction efforts were suffering due to a lack of resources, so the main focus of the Act was to increase resources for interdiction.[70] This response was not a cure-all, however, since the chief handicap to Federal interdiction efforts—lack of coordination among the various agencies responsible for interdiction—remains unresolved. The dissenting views of Representative Philip M. Crane highlight the possible weaknesses of this legislation:

> Coordination and cooperation among the various agencies responsible for drug interdiction is essential in addressing the drug problem effectively, and the Committee made no real effort to encourage this. Establishing similar functions in various agencies, which compete for scarce budgetary resources, will only cripple our collective effort.
>
> For example, the Air Force already is establishing a drug interdiction "air wing" to provide surveillance and detection assistance to drug enforcement authorities. Increasing the authorization for the Customs Services air

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[66] Pub. L. No. 99-570, §§ 3052, 3057, 100 Stat. 5127, 5130.

[67] H.R. Rep. No. 794, 99th Cong., 2d Sess. (1986) at 1, 3.

[68] U.S. Department of Justice, Criminal Division, *Handbook on the Anti-Drug Abuse Act of 1986*, 115 (March 1987) (hereinafter cited as *Justice Dept. Handbook*).

[69] *Justice Dept. Handbook* at 115–116.

[70] H.R. Rep. No. 794, at 1-2.

> program without taking into account existing resources and equipment under the control of DOD and other law enforcement agencies is not appropriate or even sensible during these times of huge budget deficits.[71]

While the National Drug Interdiction Improvement Act of 1986 does not address this coordination problem, some attempt to do so is made by the National Anti-Drug Reorganization and Coordination Act. This Act acknowledges that Federal responsibility for combating drug trafficking is divided among many agencies and bureaus and that this presents an obstacle to efficiently combating drug trafficking. The Act proposes no specific solution to the problem, but instead requires the President to prepare a plan to reorganize the executive branch to more effectively combat drug trafficking and abuse.[72]

Although the President has not yet made such proposal, the Senate has recently proposed Senate Bill S. 789, which would provide a framework to pursue a coordinated national and international narcotics control policy.[73] This bill would establish an office called the Office of the Director of National Drug Control Policy. There would be two deputy directors—one in charge of demand reduction and the other in charge of drug law enforcement, including border interdiction. One of the purposes of this Office would be to direct and coordinate government efforts to halt the importation and distribution of illicit drugs in the United States. The National Drug Enforcement Policy Board would be terminated.

III. LEGISLATIVE AND EXECUTIVE ACTION RELATING TO MONEY LAUNDERING AND FOREIGN BANK SECRECY

Money laundering is the process of changing money gained from illegal operations into a manageable form while concealing its illicit origins.[74] Narcotics trafficking creates the largest demand for money laundering, but organized crime activities such as gambling and loan sharking [75] also create a demand.

Money laundering schemes frequently involve the use of international financial channels. The President's Commission on Organized Crime estimated that $5 to $15 billion of money representing proceeds of illegal activities moves into international financial channels each year. Probably more than two-thirds of this money passes through Columbia or the Carribean offshore banking centers.[76] This money is moved overseas in four ways:

1. Money is physically carried overseas;
2. Money is deposited in United States banks and wired overseas;
3. Financial instruments such as cashiers checks or bearer bonds are physically carried overseas; and

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[71] *Id.* at 30.
[72] Pub. L. No. 99–570, § 7002, 100 Stat. 5213.
[73] S. 789, 100th Cong., 1st Sess. (1987).
[74] Narcotics Control Report at 343.
[75] President's Commission on Organized Crime, "The Cash Connection: Organized Crime, Financial Institutions, and Money Laundering" (October 1984) at 7.
[76] *Id.* at 13.

Union Calendar No. 106

100th Congress, 1st Session - - - - - - - - - - - - House Report 100-184

THE NATIONAL DRUG POLICY BOARD: A FAILURE IN THE WAR ON DRUGS

TWELFTH REPORT

BY THE

COMMITTEE ON GOVERNMENT OPERATIONS

together with

ADDITIONAL VIEWS

June 25, 1987.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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LETTER OF TRANSMITTAL

House of Representatives,
Washington, DC, June 25, 1987.

Hon. Jim Wright,
Speaker of the House of Representatives,
Washington, DC.

Dear Mr. Speaker: By direction of the Committee on Government Operations, I submit herewith the committee's twelfth report to the 100th Congress. The committee's report is based on a study made by its Government Information, Justice, and Agriculture Subcommittee.

Jack Brooks,
Chairman.

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Union Calendar No. 106

100TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
100-184

THE NATIONAL DRUG POLICY BOARD: A FAILURE IN THE WAR ON DRUGS

JUNE 25, 1987.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. BROOKS, from the Committee on Government Operations, submitted the following

TWELFTH REPORT

together with

ADDITIONAL VIEWS

BASED ON A STUDY BY THE GOVERNMENT INFORMATION, JUSTICE, AND AGRICULTURE SUBCOMMITTEE

On June 16, 1987, the Committee on Government Operations approved and adopted a report entitled "The National Drug Policy Board: A Failure in the War on Drugs." The chairman was directed to transmit a copy to the Speaker of the House.

I. FINDINGS

1. GENERAL FINDINGS

(A) The failure of the federal government to create a single entity with the purpose of leading the war on drugs has plagued the nation's federal anti-drug abuse efforts for more than 25 years.

(B) The absence of a single lead entity for federal anti-drug abuse efforts is a major contributing cause of the current state of enforcement activities. Current federal anti-drug abuse efforts are characterized by overlapping jurisdictions, uncertain leadership, and "turf battles" that frustrate the success of many anti-narcotics programs.

(C) More than three dozen federal agencies with conflicting or overlapping jurisdictions are currently involved in anti-drug abuse efforts.

2. THE NATIONAL NARCOTICS ACT OF 1984

(A) Congress created the National Drug Enforcement Policy Board in the National Narcotics Act of 1984 to provide strong, central leadership in the war on drugs and to oversee the activities of the various agencies involved.

(B) As envisioned by Congress in the National Narcotics Act of 1984, the National Drug Policy Board is responsible for three primary tasks deemed vital to a more effective war on drugs: the coordination between agencies of anti-drug abuse activities and the settling of inter-agency disputes; the allocation of resources to the agencies involved in those activities and; the development and implementation of policy for the war on drugs.

3. THE NATIONAL DRUG POLICY BOARD

(A) While the Policy Board has made some limited contributions to federal anti-drug abuse efforts, it has failed to adequately perform the three major responsibilities which Congress intended.

- (1) The National Drug Policy Board has failed to resolve inter-agency disputes in an efficient and timely manner.
- (2) The National Drug Policy Board's Directive designating lead agencies for the various elements of federal anti-drug abuse efforts lacks an effective tool for resolving inter-agency conflicts.
  - (a) The Directive has no conflict resolution mechanism for addressing inter-agency disputes.
  - (b) The agencies charged with primary responsibility have no authority over the programs or policies of other agencies involved in those programs.
- (3) The Board has failed to carry out its budget responsibilities as required by the Act.
  - (a) It has been unable to produce any meaningful analysis of resource allocations.
  - (b) It has made no recommendations to the President on budget matters.
  - (c) There is little evidence that it has actively reviewed agency drug enforcement expenditures.
- (4) Although the National Drug Policy Board has claimed credit for a variety of anti-drug abuse programs over the last two years, nearly all these would have occurred with or without the Board's input.

(B) The National Drug Policy Board's structure is inappropriate to the task at hand.

- (1) The relationships between components of the Board are uncertain.
- (2) The Board relies on the reaching of a consensus to resolve difficult issues.

(C) As a result of the National Drug Policy Board's failure to meet its responsibilities, agency disputes have been left to simmer, the Board has left budget duties unfulfilled, and federal policy is often unclear. The effect has been to hamper federal anti-drug abuse efforts.

II. Recommendations

1. The National Drug Policy Board should adopt a management style more appropriate to the task at hand. The Board should immediately institute a formal conflict resolution mechanism to ensure that disputes are resolved quickly and efficiently.

2. The National Drug Policy Board should vigorously pursue its budget responsibilities; the Board should take an active role in reviewing agency expenditures and regularly make formal recommendations to the President on budget matters.

3. The National Drug Policy Board should undertake a comprehensive study of resource allocation to determine where the federal government can get the best return for its money in the war on drugs, and report to the President and Congress on its findings within four months.

4. If the Policy Board proves unable to assume a more forceful and efficient leadership role at the federal level, Congress should institute a federal reorganization to place all major drug law enforcement agencies into an existing single department under the direction of a cabinet-level secretary.

III. Background

THE NATIONAL DRUG POLICY BOARD [1]

As part of the National Narcotics Act of 1984, Congress created the National Drug Enforcement Policy Board, a cabinet-level council under the chairmanship of the Attorney General, to provide leadership in the war against drugs. The stated intent of the Act was to insure:

> (1) the maintenance of a national and international effort against illegal drugs;
>
> (2) that the activities of the Federal agencies involved are fully coordinated; and
>
> (3) that *a single, competent, and responsible high-level Board of the United States Government,* chaired by the Attorney General, *will be charged with this responsibility of coordinating United States policy with respect to national and international drug law enforcement.*[2]

Section 1304 of the Act gave the Policy Board the responsibility for and authorization to:

> (1) review, evaluate and develop United States Government policy, strategy and resources with respect to illegal drug law enforcement efforts, including budgetary priorities and a National and International Drug Law Enforcement Strategy;

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[1] The name, "The National Drug Enforcement Policy Board" was mandated by the National Narcotics Act of 1984. However, by executive order President Reagan created the National Drug Policy Board in March, 1987, by incorporating the National Drug Enforcement Policy Board into the National Drug Policy Board. For the purposes of this report, the Board will be referred to throughout as the National Drug Policy Board.

[2] Public Law 98-473, Title II, Chapter XIII-National Narcotics Act, Sec. 1302(b). [Emphasis added.]

Union Calendar No. 339

100th Congress, 2d Session - - - - - - - - - - - - House Report 100-562

OPERATION ALLIANCE: DRUG INTERDICTION ON THE SOUTHWEST BORDER

FORTY-FOURTH REPORT

BY THE

COMMITTEE ON GOVERNMENT OPERATIONS

April 5, 1988.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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LETTER OF TRANSMITTAL

House of Representatives,
Washington, DC, April 5, 1988.

Hon. Jim Wright,
Speaker of the House of Representatives,
Washington, DC.

Dear Mr. Speaker: By direction of the Committee on Government Operations, I submit herewith the committee's forty-fourth report to the 100th Congress. The committee's report is based on a study made by its Government Information, Justice, and Agriculture Subcommittee.

Jack Brooks, *Chairman.*

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Union Calendar No. 339

100th Congress | HOUSE OF REPRESENTATIVES | Report
2d Session | | 100-562

OPERATION ALLIANCE: DRUG INTERDICTION ON THE SOUTHWEST BORDER

April 5, 1988.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. Brooks, from the Committee on Government Operations, submitted the following

FORTY-FOURTH REPORT

BASED ON A STUDY BY THE GOVERNMENT INFORMATION, JUSTICE, AND AGRICULTURE SUBCOMMITTEE

On March 22, 1988, the Committee on Government Operations approved and adopted a report entitled "Operation Alliance: Drug Interdiction on the Southwest Border." The chairman was directed to transmit a copy to the Speaker of the House.

I. Introduction

The U.S. southern land border, a strip of often desolate, isolated, and strikingly beautiful terrain stretching some 2,000 miles from the Pacific at San Diego, CA, to the Gulf of Mexico at Brownsville, TX, has long posed a frustrating law enforcement dilemma to the Federal Government. Officials charged with stopping the flow of weapons, stolen vehicles, aliens, contraband, currency, and terrorists—while at the same time facilitating legitimate commerce across an open and imaginary border—face an all but impossible task.

That responsibility is made substantially more complex with the recent flood of illegal narcotics smuggled from Mexico into the United States. Officials now estimate that roughly one-third of the heroin, one-third of the marijuana, and one-third of the cocaine entering the country come across the southern land border.[1]

On August 14, 1986, Vice President George Bush as head of the National Narcotics Border Interdiction System[2] [NNBIS] and Attorney General Edw[illegible] III as Chairman of the National Drug Enforcement Policy Bo[illegible]nounced an initiative "of unprecedented scope aimed at choking off the flow of drugs, weapons, illicit currency and other contraband being smuggled across the United States-Mexico border."[4]

Called Operation Alliance [Alliance], the program would include participation of the Department of the Treasury, the Customs Service [Customs], the Bureau of Alcohol, Tobacco, and Firearms [ATF], the Internal Revenue Service, the Secret Service, the Department of Justice, the five U.S. attorneys with jurisdiction over border areas, the Federal Bureau of Investigation, the Drug Enforcement Administration, the Immigration and Naturalization Service and its uniformed U.S. Border Patrol, the Marshals Service, the Coast Guard, the Federal Aviation Administration, the Department of State, and many components of the Department of Defense.[5]

The new program was to be implemented with the cooperation of the Government of Mexico. Mexican cooperation, however, has not been forthcoming, and a series of events within Mexico, including the abduction and torture of an American DEA agent by Mexican police, effectively put an end to any working relationship with that country.

In a 1987 report prepared for the Government Information, Justice, and Agriculture Subcommittee [subcommittee] on Federal antidrug smuggling efforts, the General Accounting Office [GAO] identified Operation Alliance as a multiagency effort "intended to stem the flow of drugs across the southwest border."[6] Although

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[1] *Federal Antidrug Abuse Policies, 1987,* Hearings before a Subcommittee of the House Committee on Government Operations, 100th Cong., 1st sess. at 493 (Dec. 17, 1987) [hereinafter cited as "Hearings"].

The amounts of illegal narcotics available within the United States are staggering. As much as 72 metric tons of cocaine and 12,000 metric tons of marijuana were available in 1985 (including those amounts seized or otherwise lost to smugglers) see National Narcotics Intelligence Consumers Committee, *The Supply of Illicit Drugs to the United States From Foreign and Domestic Sources in 1985 and 1986* at 15, 26 (1987).

Availability statistics of illegal substances are inherently inaccurate. For a discussion of the misuse of such statistics by the Reagan administration, see House Committee on Government Operations, *Going To Pot: Marijuana Cultivation On Public Lands and the Federal Response,* H. Rept. 100-454, 100th Cong., 1st sess. at 8 (1987).

[2] For a review and evaluation of the National Narcotics Border Interdiction System [NNBIS], see: *Review of the Administration's Drug Interdiction Efforts,* hearings before a subcommittee of the House Committee on Government Operations, 98th Cong., 1st sess. (1983); *Continued Review of the Administration's Drug Interdiction Efforts,* Hearings before a subcommittee of the House Committee on Government Operations, 98th Cong., 2d sess. (1984); *Initiatives in Drug Interdiction (Part 1),* hearings before a subcommittee of the House Committee on Government Operations, 99th Cong., 1st sess. (1985); and, General Accounting Office, *Coordination of Federal Drug Interdiction Efforts,* (GAO/GGD-85-67) (July 15, 1987).

[3] The National Drug Enforcement Policy Board was subsequently renamed the National Drug Policy Board by Executive Order 12590, 52 Fed. Reg. 10021 (Mar. 26, 1987). For a review of the National Drug Policy Board, see House Committee on Government Operations, *The National Drug Policy Board: A Failure In The War On Drugs,* H.R. Rept. 100-184, 100th Cong., 1st sess. (1987).

[4] Department of Justice News Release (Aug. 14, 1986). See also transcript, Department of Justice Press Conference (Aug. 14, 1986). *Hearings* at 206.

[5] Id.

[6] General Accounting Office, *Drug Smuggling: Large Amounts of Illegal Drugs Not Seized by Federal Authorities* 36 (June 1987) (GAO/GGD-87-91).

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GAO *identified* Operation Alliance as an interdiction effort, GAO "did *not review* Federal interdiction efforts relating to drug smuggling through Customs ports of entry . . . and across the U.S. land borders between ports of entry." [7] [Emphasis added.]

To evaluate the progress and results of Operation Alliance, the subcommittee conducted an extensive investigation into the program. In addition, the General Accounting Office was requested to review Operation Alliance and provide a report on its status and accomplishments. [8] The subcommittee investigation culminated in a hearing on December 17, 1987.

Frank Keating, Assistant Secretary for Enforcement, Department of the Treasury, was the principal witness. Keating was accompanied by Alan Eliason, Senior Tactical Coordinator, Operation Alliance, U.S. Border Patrol, Immigration and Naturalization Service, and Charles D. Sherman, Drug Enforcement Administration, Department of Justice; William Rosenblatt, Assistant Commissioner for Enforcement, and Sam Banks, Assistant Commissioner for Inspection and Control, U.S. Customs Service.

In general, Operation Alliance has not lived up to the claims of success or progress made by officials of the Reagan administration. The spirit of cooperation is isolated and a lack of cooperation among participating agencies has hampered Operation Alliance.

Perhaps more important, Operation Alliance lacks a coherent and consistent definition, operational plan, evaluation and oversight program, and intelligence integration mechanism. There is too much reliance on meaningless and contradictory statistics to measure results, and an inaccurate portrayal of personnel committed to Operation Alliance.

In addition, Operation Alliance lacks both a workable structure and an efficient line of command. For example, although Vice President George Bush announced at Operation Alliance's inception that it would be coordinated through his National Narcotics Border Interdiction System, it is not apparent what role—if any—NNBIS has played in narcotics interdiction along the southwest border.

Some of these problems can be overcome, given better direction from the National Drug Policy Board [Policy Board]. Others are institutional and may require some restructuring of the agencies if they are to be resolved.

However, the subcommittee's investigation and the hearing revealed that there are promising aspects of Operation Alliance. In particular, the involvement on the part of the U.S. Border Patrol signifies a needed commitment by an agency with considerable resources and experience available on the southwest land border.

In addition, a program instituted under Operation Alliance—that of multiagency investigative "border investigative groups"—appears in some locations to be highly successful. For example, the cooperation exhibited between investigators for the U.S. Customs Service, the Drug Enforcement Administration, and the U.S. Border Patrol in San Diego, CA, and in Nogales, AZ, supports Operation Alliance's underlying concept: That separate law enforcement agencies can work together effectively in the war against drugs.

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[7] Id. at 35.

[8] Letter from Chairman English to Charles A. Bowsher, Comptroller General of the United States, July 9, 1987.

II. FINDINGS

The committee finds that:

1. Nearly one-third of the cocaine, one-third of the marijuana, and one-third of the heroin entering the United States is smuggled across our southern land border with Mexico.
2. Operation Alliance, a multiagency effort to stop the flow of drugs across the southern land border, has not lived up to its full promise. Its activities have been frustrated by a variety of organizational problems.
3. Operation Alliance's definition is unclear and its organization unstructured.
4. Officials in charge of Alliance have no command authority over the agents participating in Alliance; nor are they necessarily consulted about, or even aware of, command decisions taken which affect Operation Alliance.
5. Operation Alliance's mobile corridor operations are programs designed to add U.S. Border Patrol, DEA, and Customs Service personnel to a specific stretch of the border for a limited period. These operations are the primary multiagency initiatives along the southwest border, but they have not always been carried out with the necessary cooperation, operational security, or integration of intelligence that is demanded of a successful interdiction program.
6. Operation Alliance has failed to enlist the full and total cooperation of many of the Federal agencies participating in it.
7. Operation Alliance has not instituted a method for incorporating available law enforcement intelligence into its programs. Operation Alliance officials do not routinely receive information from the El Paso Intelligence Center [EPIC], the Drug Enforcement Administration's central repository for narcotics law enforcement intelligence. As a result, a valuable law enforcement asset is not fully utilized.
8. Operation Alliance officials have overstated the personnel levels committed to Alliance by the Border Patrol. While officials have implied that more than 300 agents have been added to the border under Operation Alliance, the actual number is far less.
9. Administration officials have been too willing to proclaim success based on incomplete and misleading statistics.
10. Problems with coordination suggest that programs designed to elicit multiagency cooperation are inadequate and that major structural changes in drug interdiction activities are needed.
11. Operation Alliance is a worthy concept. Some of its programs have been effective and demonstrate the potential value of a multiagency border interdiction program.

III. RECOMMENDATIONS

The committee recommends that:

1. The National Drug Policy Board should delineate a clear definition and organizational structure for Operation Alliance. Oper-

ation Alliance management should have direct authority over agents assigned to the program.

2. The National Drug Policy Board should audit Operation Alliance activities on a regular basis in order to assess its strengths and weaknesses. Changes in priorities, operations, and tactics should be made when problems are identified.

3. Operation Alliance should develop an effective and efficient means of obtaining all available law enforcement intelligence, in particular from the DEA's El Paso Intelligence Center, needed to successfully carry out multiagency interdiction activities.

4. Operation Alliance should institute regular reporting of mobile corridor operations and personnel staffing levels.

5. The National Drug Policy Board should report to this and other appropriate committees of Congress within 6 months on what steps have been taken to implement these recommendations.

6. Congress should consider the need for legislation which reorganizes the Federal Government to place law enforcement agencies with narcotics interdiction jurisdiction within a single department in order to better plan and coordinate activities such as Operation Alliance.

By Mr. BYRD:

S. Res. 400. A resolution to modify section 5 of S. Res. 382, Ninetieth Congress; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DeCONCINI (for himself, Mr. D'Amato, Mr. Dixon, Mr. Moynihan, Mr. Graham, Mr. Domenici, Mr. Dole, Mr. Wilson, Ms. Mikulski, Mr. Kerry, Mr. Specter, Mr. Murkowski, Mr. Rockefeller, Mr. Bentsen, Mr. Hatfield, Mr. Pressler, Mr. Heinz, Mr. Cochran, Mr. Reid, Mr. Heflin, Mr. Weicker, Mr. Grassley, Mr. Rudman, Mr. Stevens, Mr. Inouye, Mr. Trible, Mr. Bingaman, Mr. Breaux, Mr. Sarbanes, Mr. Sanford, Mr. Stennis, Mr. Pell, Mr. Thurmond, Mr. Nickles, Mr. McConnell, Mr. Karnes, Mr. Durenberger, Mr. Helms, Mr. Hecht, and Mr. Cranston):

S. 2205. A bill to enact the Omnibus Antidrug Abuse Act of 1988, and for other purposes; to the Committee on the Judiciary.

OMNIBUS ANTIDRUG ABUSE ACT

Mr. DeCONCINI. Mr. President, I rise today to introduce the Omnibus Antidrug Abuse Act of 1988 and do so on behalf of myself, the distinguished Senator from New York, Senator D'Amato and over 30 of my other colleagues.

Mr. President, the 1986 drug bill was an example of what this Chamber and what this Nation can do when it puts partisan politics aside, rolls up its collective sleeves, and gets serious about the drug problem in this country. Today, the bill that Senator D'Amato and I are introducing builds on the accomplishments of the 1986 drug bill and goes the next step in mobilizing all elements of our antidrug effort.

Mr. President, there may be a part of the drug plague that we did not attack in this legislation—but there aren't many. This bill represents a balanced, comprehensive assault on the drug threat to this Nation. The bill calls for an additional $2,448,000,000, over the President's budget request for fiscal year 1989 to beef up: First, law enforcement personnel at our civilian drug enforcement agencies; second, drug interdiction assets for Coast Guard and Customs and other agencies with an interdiction mission; third, Federal prison construction; fourth, State and local narcotics control assistance; fifth, international incentives to promote drug eradication and interdiction at the drug source country level; sixth, treatment and rehabilitation assistance for those who have already fallen victim to the drug menace; and seventh, drug education for our school systems around the Nation.

The bill also opens up the Justice and Treasury Department forfeiture funds so that all of the resources resulting from seizure and confiscation from drug traffickers can be put to use for State and local law enforcement agencies and others who are eligible for such assistance.

The bill includes a tough, new law that attacks the problem of illicit chemical diversion with rigid new penalties for those who use chemicals to manufacture the drugs that are poisoning our youth and ruining lives in this country.

The bill also authorizes funds for additional training of our law enforcement personnel and establishes a new program of research and development at existing Department of Defense and other Federal laboratories, to study new technologies that will help our drug enforcement agencies keep ahead of the sophisticated, well-financed drug smuggler.

And, finally, the bill authorizes the establishment of a nonlegislative Senate Select Committee on Narcotics Abuse and Control that will give us a full-time oversight committee that will review the drug abuse issue and provide advice and counsel to the Senate.

Mr. President, in crafting this legislation, we knew that it would cost money to really launch a full scale assault on the drug problem on multiple fronts. We were aware of the economic budget summit agreement; the Gramm-Rudman-Hollings deficit targets; and the need to try to find offsets for the programs and initiatives contained in this legislation.

So, Mr. President, this bill not only sets out new, aggressive initiatives for tackling the drug enforcement and drug abuse problems, it contains a formula for how we intend to pay for them. Here is how we would pay for the bill:

First, in testimony before my Treasury Appropriations Subcommittee just last Monday, the Commissioner of IRS testified that if we were to add $286.6 million and approximately 6,800 new positions over the President's budget, the Treasury would receive an additional $1,120,000,000 over and above the revenue assumptions in the economic budget summit agreement. We would add the additional positions to IRS for increased tax enforcement and deposit the additional revenues generated into a special antidrug abuse trust fund in Treasury. These funds would then only be available to pay for the drug bill.

Second, in response to our inquiry, the Bureau of Alcohol, Tobacco, and Firearms indicated that an additional $3 million and 40 positions put into aggressive enforcement of the special occupational alcohol tax would generate an additional $130 million over and above the President's budget for fiscal year 1989. We provide the additional funding and positions in this bill, with the additional revenues going into the new special fund I just mentioned.

Finally, for many years I have been introducing legislation that would force our Federal agencies to be more aggressive in the collection of delinquent debt owed to the Government. I was one of the original cosponsors of Senator Charles Percy's debt collection bill back in 1980 and last year I introduced my own bill, S. 1270 that would provide new incentives and goals for debt collection. The bill that is being introduced today, mandates the collection of $2 billion over and above the debt collection estimates of the President for fiscal 1989.

We include a new approach to pushing agencies to use all of the tools available to collect the nearly $29 billion in nontax delinquent debt currently on the books. Under the bill, we would allow an agency to keep a portion of the funds it collects over and above its debt collection target set by the Secretary of the Treasury. On the other hand, if an agency falls short of its target, the President would then propose a rescission of a portion of their funding, based on how short of their goal they fell.

All of the $2 billion to be collected over and above the President's budget estimates would be deposited into the special antidrug abuse Treasury fund to help pay for the drug bill.

In total, there would be more than enough additional revenues put into the special fund to cover the entire cost of the drug bill for fiscal year 1989, with some left over. So even if our estimates of the aggregate cost of the Omnibus Antidrug Abuse Act of 1988 are off slightly, the special fund would have sufficient resources to cover the bill's price tag. And we would not be violating either the Gramm-Rudman-Hollings targets, or the economic budget summit, or the President's budget.

CONCLUSION

Mr. President, this is a good bill. It hits the drug problem on many fronts. It is fiscally responsible and pays for itself. And, most importantly, it is needed now. The drug problem has not gone away since 1986. We need to provide this additional muscle to fight the narcotics trafficker—and this bill does that.

Mr. President, I understand that Congressman Glenn English will be introducing virtually the same bill later today in the House. I also understand that the Speaker of the House has made a commitment to Mr. English that he will attempt to bring up the drug bill before June. That is encouraging, and I hope that the leadership in the Senate will move this legislation to the floor quickly before the summer.

Mr. President, I ask unanimous consent that a copy of the Omnibus Antidrug Abuse Act of 1988 be printed in the Record.

Mr. President, I also ask unanimous consent that a detailed summary of the bill and a cost breakdown of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2205

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Antidrug Abuse Act of 1988".

SEC. 2. ORGANIZATION OF THE ACT.

This Act is organized as follows:

TITLE I—DRUG ENFORCEMENT AND PERSONNEL ENHANCEMENT

Subtitle A. Asset Forfeiture Fund Amendments Act of 1988.
Subtitle B. State and local narcotics control assistance.
Subtitle C. Chemical Diversion and Trafficking Act of 1988.
Subtitle D. Comprehensive Federal Law Enforcement Officer Improvements Act of 1988.
Subtitle E. Deportation of convicted foreign drug inmates.
Subtitle F. Customs Enforcement Amendments Act of 1988.
Subtitle G. Authorization of additional appropriations for drug enforcement personnel, fiscal year 1989.
Subtitle H. Miscellaneous law enforcement provisions.

TITLE II—INTERNATIONAL NARCOTICS CONTROL AND ASSISTANCE TO FOREIGN COUNTRIES

Subtitle A. International drug eradication improvement program.
Subtitle B. International narcotics matters improvement and special assistance programs.
Subtitle C. Amendments to Foreign Assistance Act of 1961, as amended.
Subtitle D. International narcotics matters authorization of appropriations.
Subtitle E. Latin American Antidrug Strike Force.

TITLE III—DRUG INTERDICTION ASSET IMPROVEMENT AND ENHANCEMENT

Subtitle A. Coast Guard.
Subtitle B. United States Customs Service.
Subtitle C. Department of Defense drug interdiction assistance.
Subtitle D. Drug Enforcement Administration.
Subtitle E. Immigration and Naturalization Service/Border Patrol.
Subtitle F. Establishment of Interagency Southwest Border Drug Interdiction Mobile Corridor Task Force.
Subtitle G. United States-Bahamas Drug Interdiction Task Force.
Subtitle H. Special drug interdiction support.

TITLE IV—DEMAND REDUCTION

Subtitle A. Treatment and rehabilitation.
Subtitle B. Alcohol and drug abuse treatment and rehabilitation.
Subtitle C. Amendments to the Drug-Free Schools and Communities Act.

TITLE V—NATIONAL DRUG ENFORCEMENT AGENCY REORGANIZATION AND COORDINATION

Subtitle A. Establishment of Office of Enforcement and Border Affairs in Department of Treasury.
Subtitle B. Department of Defense drug interdiction reorganization.
Subtitle C. Establishment of a Senate Select Committee on Narcotics Abuse and Control.

TITLE VI—RESEARCH AND DEVELOPMENT FOR LAW ENFORCEMENT AGENCIES

Subtitle A. Establishment of new research and development programs to assist Federal law enforcement agencies.
Subtitle B. Cargo container drug detection research and development.

TITLE VII—DRUG ENFORCEMENT TRAINING IMPROVEMENT

Subtitle A. Federal Law Enforcement Training Center Improvement Act of 1988.
Subtitle B. Department of Justice Training Facilities Improvement Act of 1988.
Subtitle C. Federal Law Enforcement Language Training Improvement Act of 1988.
Subtitle D. Authorization of appropriations for special training centers.

TITLE VIII—DRUG TESTING IN THE PRIVATE SECTOR

TITLE IX—CONGRESSIONAL POLICY REGARDING ADDITIONAL FUNDING FOR FISCAL YEAR 1989 FOR ANTIDRUG ABUSE PROGRAMS

TITLE X—FUNDING: ACCOUNTS

Subtitle A. Offsetting Revenues and Savings to Cover the Cost of the Act.

TITLE I—DRUG ENFORCEMENT AND PERSONNEL ENHANCEMENT

Subtitle A—Asset Forfeiture Fund Amendments Act of 1988

SEC. 101. SHORT TITLE.

This subtitle may be cited as the "Department of Justice and Department of Treasury Assets Forfeiture Fund Amendments Act of 1988".

SEC. 102. ASSET FORFEITURE FUNDS.

(a)(1) Notwithstanding any other provision of law, the receipts and disbursements out of the Department of Justice Assets Forfeiture Fund, established by section 524(c)(1) of title 28, United States Code, and the Customs Forfeiture Fund, established by section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b)—

(A) shall not be included in the totals of—

(i) the budget of the United States Government as submitted by the President; or

(ii) the congressional budget, including allocations of budget authority and outlays provided therein;

(B) shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government; and

(C) shall not be included for purposes of calculating—

(i) the deficit under section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.); or

(ii) the excess deficit for purposes of sections 251 and 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 and 902) for any fiscal year.

(2)(A) Notwithstanding any other provision of law, for purposes of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) the Department of Justice, with respect to receipts and disbursements from the Assets Forfeiture Fund, and the United States Customs Service, with respect to receipts and disbursements from the Customs Forfeiture Fund, shall be considered an off-budget Federal entity as such entity is defined under section 3(8) of such Act (2 U.S.C. 622(8)).

(B) Nothing in this subsection may be construed to diminish the oversight authority of the Congress under law with respect to the operations and budget of the Department of Justice or the United States Customs Service.

(C) Amounts to be disbursed out of the Department of Justice Assets Forfeiture Fund and the Customs Forfeiture Fund shall not be subject to limitation by appropriations Acts.

(D) This subsection shall apply to budgets for fiscal years beginning after September 30, 1988.

(3) Section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended by—

(A) striking out "subject to appropriation, during the period beginning on the date of the enactment of this section and ending on September 30, 1991. The fund shall be available" in subsection (a); and

(B) striking out "during the period beginning on the date of the enactment of this section, and ending on September 30, 1987," in subsection (c); and

(C) repealing subsection (f).

(b) Section 524(c)(1) of title 28 of the United States Code is amended by striking out "and" at the end of subparagraph (F), by striking out the period at the end of subparagraph (G) and inserting in lieu thereof "; and" and, by inserting the following new subparagraph:

"(H) after all reimbursements and program-related expenses have been met at the end of each fiscal year, the Attorney General shall transfer deposits from the Assets Forfeiture Fund to the Building and Facilities account of the Federal prison system for the construction of correctional institutions, and to the Support of United States Prisoners in non-Federal Institutions account of the Department of Justice for payments authorized by the Attorney General or his designee under contracts and cooperative agreements with any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, acquisition of equipment, supplies, or materials required to establish acceptable conditions of confinement and detention services in any State or local jurisdiction which agrees to provide guaranteed bedspace for Federal detainees within that correctional system. The Attorney General shall report to the appropriate committees of the Congress any amount proposed to be transferred under this subparagraph.".

(c) Amounts proposed for transfer pursuant to subsection (a) shall be transferred only upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate and approval under said Committees' policies concerning the reprogramming of funds.

(d)(1) Section 524(c)(1)(A) of title 28, United States Code, is amended by inserting immediately before the semicolon at the end thereof a comma and the following: "and the Attorney General may exempt the procurement of supplies and services under the fund from section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 and following), and other provisions of law as may be necessary to maintain the securiafter the second sentence the following: "Each determination of the President under the preceding sentence shall be expressed in numerical terms, such as the number of acres of illicitly cultivated controlled substances which can be eradicated.".

SEC. 241. REPORTS ON ASSISTANCE DENIED.

Section 481(e) of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"(7) Each report pursuant to this subsection shall describe the United States assistance for the preceding fiscal year which was denied, pursuant to subsection (h), to each major illicit drug producing country and each major drug-transit country.".

Subtitle E—Latin American Antidrug Strike Force

SEC. 250. SENSE OF THE CONGRESS.

It is the sense of Congress that—

(1) the operations of international illegal drug smuggling organizations pose a direct threat to the national security of the member states of the Organization of American States;

(2) illegal international drug smuggling organizations have grown so large and powerful that they threaten to overwhelm small nations standing alone against them;

(3) to preserve the national sovereignty, protect the public health, and maintain domestic law and order within their borders, member states of the Organization of American States should coordinate their efforts to fight the illegal drug trade;

(4) recent events in drug source and transit countries in the Western Hemisphere make clear the requirement for international agreement on the formation of a multinational strike force intended to conduct operations against these illegal drug smuggling organizations;

(5) the United States should make every effort to initiate diplomatic discussions through the Organization of American States or through other bilateral or multilateral fora aimed at achieving agreement to establish and operate the Latin American Antidrug Strike Force; and

(6) sensitive to the legitimate concerns of other member states of the Organization of American States, the United States stands ready to provide equipment, training, and financial resources to support the establishment and operation of this Strike Force, but believes that Strike Force personnel should be provided by those states facing the most serious threat from drug trafficking organizations.

SEC. 251. DEPARTMENT OF STATE.

(a) In the Office of Secretary of State, the position of Ambassador at Large and Coordinator for Western Hemisphere Antidrug Efforts is created. The Ambassador shall be appointed by the President, with the advice and consent of the Senate, and shall be the principal advisor to the Secretary regarding United States antidrug efforts in the Western Hemisphere.

(b)(1) The Ambassador at Large, under the direction of the Secretary of State, shall coordinate the efforts of all United States bureaus and agencies involved in antidrug efforts and subject to the authority of the Chief of Diplomatic Mission in all foreign states in the Western Hemisphere, with special emphasis on those activities which cross one or more national borders.

(2) The Ambassador shall from time to time report on the effectiveness of the operations of and the level of cooperation among these United States bureaus and agencies involved in antidrug efforts to the Secretary of State and to the Chairman of the National Drug Policy Board.

(3) The Ambassador at Large shall be a member of all interagency groups below the cabinet level with authority or oversight over United States international drug policy or operations.

(c)(1) The Ambassador at Large shall undertake, under the direction of the Secretary of State, diplomatic discussions with member states of the Organization of American States aimed at securing agreement to the formation of a multinational strike force intended to conduct operations against international illegal drug trafficking organizations wherever they may be found in the Western Hemisphere.

(2) The multinational strike force shall be established by treaty or executive agreement among the participating states.

(3) The Ambassador at Large shall seek to secure participation in the strike force by those Western Hemisphere states most threatened by international illegal drug trafficking organizations.

(4) Recognizing the urgency of the situation, efforts to obtain agreement to the establishment of the strike force should be the immediate focus of a priority effort by the Ambassador at Large.

(5) Not later than six months after the Ambassador at Large assumes office, the Secretary of State shall report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on the progress United States diplomatic efforts have made toward achieving agreement on the establishment of the multinational strike force.

SEC. 252. DEPARTMENT OF DEFENSE.

(a)(1) The Secretary of Defense shall develop a plan for the establishment, training, equipping, and operation of a multinational strike force for operations against international drug trafficking organizations wherever they are found outside the United States and its territories in the Western Hemisphere.

(2) The Joint Chiefs of Staff, in consultation with the Commander, United States Southern Command, shall develop a table of organization and equipment for a multinational strike force sized and equipped to deal with any combination of armed resistance any Western Hemisphere international illegal drug trafficking organization could offer to any combination of drug eradication, drug interdiction, or criminal apprehension operations the strike force could be called upon to undertake anywhere in the Western Hemisphere.

(3) For planning purposes, the multinational strike force shall be equipped entirely with United States-produced military or commercially available equipment.

(4) The Joint Chiefs of Staff shall develop a plan for employment of this strike force to eradicate the major coca and marijuana crop concentrations in the Western Hemisphere, to interdict the major international transportation corridors through which the illegal drug traffic moves, and to arrest the members of the major international drug trafficking organizations involved in producing, transporting, and distributing illegal drugs in the Western Hemisphere, as part of coordinated operations designed to drastically and immediately reduce the supply of cocaine, opium, and marijuana on the international market.

(b)(1) The Secretary of Defense shall develop budget-quality estimates of the cost of establishing, equipping, training, and operating the strike force planned for under subsection (a) above for the balance of fiscal year 1989; for fiscal year 1990; and for fiscal year 1991.

(2) The Secretary of Defense shall identify equipment and supplies in the United States inventory which can be provided to this strike force pursuant to the table of organization and equipment developed by the Joint Chiefs of Staff under subsection (a) above.

(3) The Secretary of Defense shall identify training resources in the United States which will be necessary to properly train the strike force, shall develop schedules for training the national strike force developed by the Joint Chiefs of Staff under subsection (a) above, and shall develop cost estimates for transporting, training, and housing strike force personnel and their dependents in conjunction with their training.

(4) The cost estimates and plans developed under section 252 of this subtitle shall be provided to the Committees on the Budget, the Committees on Armed Services and the Committees on Appropriations, of the Senate and the House of Representatives, and the Select Committee on Narcotics Abuse and Control of the House of Representatives, and the Senate International Narcotics Control Caucus not later than ninety days after the enactment of this subtitle into law.

(c) The Assistant Secretary of Defense for International Security Affairs shall develop a plan for funding and supporting the multinational strike force developed under subsection (a) through the Defense Security Assistance Agency.

(d) Within 120 days of enactment of this Act, the President of the United States shall submit to Congress a supplemental budget request for the fiscal year ending September 30, 1989, covering the cost of operation and maintenance of the Latin American Strike Force established in this subtitle for the balance of the fiscal year: *Provided further*, That such supplemental budget request shall be consistent with the cost estimates mandated under subsection (b)(1) of this section.

TITLE III—DRUG INTERDICTION ASSET IMPROVEMENT AND ENHANCEMENT

SEC. 301. SHORT TITLE.

This title may be cited as the "National Drug Interdiction Asset Improvement and Enhancement Act of 1988".

Subtitle A—Coast Guard

SEC. 310. COAST GUARD DRUG INTERDICTION ENHANCEMENT.

There is authorized to be appropriated for Acquisition, Construction, and Improvement expenses of the Coast Guard for fiscal year 1989, $186,000,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such appropriation authorized under this subtitle shall be allocated only for procurement of marine and air drug interdiction assets, including long-range AEW surveillance aircraft, and operation and maintenance expenses of the Coast Guard.

Subtitle B—United States Customs Service

SEC. 320. UNITED STATES CUSTOMS SERVICE DRUG INTERDICTION ENHANCEMENT.

(a) There is authorized to be appropriated for Operation and Maintenance, Air Interdiction Program for fiscal year 1989, $110,000,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be available for the procurement of helicopters; air detection, tracking, and interceptor aircraft; command, control, communications, and intelligence (C3I) upgrades for joint Customs-Coast Guard and other C3I centers under construction; and operation and maintenance expenses for these and other assets of the United States Customs Service's air interdiction program.

(b) There is authorized to be appropriated for salaries and expenses for fiscal year 1989, $15,000,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used for the procurement, operation, and maintenance of marine interdiction vessels, and joint command centers, evaluations of new marine detection technologies, and other marine interdiction assets of the United States Customs Service.

Subtitle C—Department of Defense Drug Interdiction Assistance

SEC. 330. SHORT TITLE.

This subtitle may be cited as the "Department of Defense Drug Interdiction Assistance Act of 1988".

SEC. 331. AUTHORIZATION.

(a) Funds are hereby authorized to be appropriated to the Department of Defense for fiscal year 1989 for enhancement of drug interdiction assistance activities of the Department as follows:

(1) for procurement of four radar aerostats, $75,000,000;

(2) for operation and maintenance of E-2C, E-3, and other aircraft surveillance; detection; and flight hour support for drug interdiction purposes only, $15,000,000; and

(3) for operation, maintenance, refurbishment, and support of existing surplus Department of Defense aircraft, helicopters, and other assets to be used to support requests for assistance by cooperating, drug source countries, as outlined in title II, subtitle E of this Act, $10,000,000.

(b) The funds authorized to be appropriated in subsection (a) of this section shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989.

(c)(1) The Secretary of Defense shall make the radar aerostats acquired under subsection (a)(1) available to the appropriate Federal law enforcement agency or agencies of the United States, as designated by the National Drug Policy Board established by the National Narcotics Act of 1984.

(2) The radar aerostats shall be made available to agencies under this subsection subject to the provisions of chapter 18 of title 10, United States Code.

Subtitle D—Drug Enforcement Administration

SEC. 341. DRUG ENFORCEMENT ADMINISTRATION INTERDICTION ENHANCEMENT.

There is authorized to be appropriated for Salaries and Expenses of the Drug Enforcement Administration for fiscal year 1989, $48,000,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to the Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used for the establishment of an International Drug Interdiction helicopter force within the Drug Enforcement Administration to be utilized in joint drug interdiction operations, similar in scope and design to OPBAT, in the Bahamas and other drug source and transhipment countries that have authorized the use of joint operations featuring United States and host country law enforcement personnel in such countries for drug interdiction purposes: *Provided*, That the Administrator of the Drug Enforcement Administration shall coordinate the establishment and deployment of this International Drug Interdiction helicopter force with the Secretary of State; the Attorney General of the United States; the Secretary of the Treasury, the Secretary of Transportation, and any other law enforcement agencies of the United States with ongoing drug interdiction programs: *Provided further*, That of the appropriation authorized under this subsection, $4,000,000 shall be allocated for the enhancement of the El Paso Intelligence Center (EPIC) to provide more tactical intelligence to the Drug Enforcement Administration and all other United States drug enforcement and interdiction agencies.

Subtitle E—Immigration and Naturalization Service/Border Patrol

SEC. 351. BORDER PATROL DRUG INTERDICTION ENHANCEMENT.

There is authorized to be appropriated for Salaries and Expenses of the Border Patrol within the Department of Justice for fiscal year 1989, $20,000,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to the Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used only for procurement of drug interdiction-related equipment for Border Patrol drug enforcement personnel, including spare parts for helicopters; 4-wheel drive law enforcement vehicles; and initial procurement of mobile sensor response system and electronic intrusion detection, and for related operation and maintenance expenses.

Subtitle F—Establishment of Interagency Southwest Border Drug Interdiction Mobile Corridor Task Force

SEC. 361. AUTHORIZATION OF APPROPRIATIONS.

(a) There is established an Interagency Southwest Border Drug Interdiction Mobile Corridor Task Force, consisting of drug enforcement officers of the United States Border Patrol, United States Customs Service, and the United States Drug Enforcement Administration. Such interagency task force shall consist of 100 full-time positions of the United States Border Patrol; 25 full-time positions of the United States Customs Service; and 25 full-time positions of the United States Drug Enforcement Administration.

(b) The full-time positions identified in subsection (a) shall be used to establish 2 mobile corridor operations units to be deployed along the southwest border between the ports of entry.

(c) The purpose of the task force established in subsection (a) of this section is—

(1) to conduct joint drug interdiction operations between the ports of entry along the southwest border of the United States, from Texas to California;

(2) to assist and augment other law enforcement agencies personnel along the southwest border in the interdiction of illegal drugs and arrest of narcotics traffickers; and

(3) to assist State and local law enforcement officials along the southwest border of the United States in the interdiction of illegal drugs and the arrest of narcotics traffickers.

(d) There is authorized to be appropriated for fiscal year 1989, $15,000,000 to the Department of Justice for the salaries and expenses of the task force established in subsection (a) of this section, including reimbursement for expenses incurred by State and local law enforcement agencies in joint operations conducted with the task force. Such amount authorized to be appropriated shall be in addition to any appropriations provided for the United States Customs Service and the United States Border Patrol, and the Drug Enforcement Administration in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989, or as authorized in this Act.

(e) The Secretary of the Treasury, the Attorney General of the United States, or their designees, shall establish a joint command structure necessary to assure complete cooperation and coordination in carrying out the duties and mission of the task force established by this section.

(f) The joint commanders of the task force established under this section shall make regular written reports to the appropriate committees of the Congress regarding the specific operations and expenditures of the task force.

Subtitle G—United States-Bahamas Drug Interdiction Task Force

SEC. 362. REAUTHORIZATION OF UNITED STATES-BAHAMAS DRUG INTERDICTION TASK FORCE PROGRAMS.

(a) There is authorized to be appropriated for the United States-Bahamas Drug Interdiction Task Force established by section 3301 of subtitle E of title III of the Antidrug Abuse Act of 1986 (21 U.S.C. 801 note) for fiscal year 1989, in addition to any other amounts authorized to be appropriated in this title, $13,000,000 for the following:

(1) $11,000,000 for procurement, operation, and maintenance of additional marine interdiction vessels;

(2) $1,000,000 for improvement of communications, command and control, and intelligence capabilities for the Task Force; and

(3) $1,000,000 to increase drug enforcement training for Bahamian law enforcement personnel.

(b) The Attorney General of the United States shall continue to report to the appropriate committees of Congress on a quarterly basis regarding the progress of the United States-Bahamas Drug Interdiction Task Force.

(c) Programs authorized by this section may be carried out only with the concurrence of the Secretary of State.

Subtitle H—Special Drug Interdiction Support

SEC. 372. SPECIAL ASSISTANCE TO PUERTO RICO.

There is authorized to be appropriated to the Government of Puerto Rico, through the Department of the Treasury, "Payment to the Government of Puerto Rico" grant program for fiscal year 1989, $7,000,000: *Provided*, That such amount shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used for the procurement of air and marine drug interdiction aircraft; vessels; and for related drug interdiction operation and maintenance purposes.

(2) by inserting after subparagraph (C) the following new subparagraphs:

"(D) describe the extent and nature of the current illegal drug and alcohol problem in each school of the applicant, including detailed information that shows—

"(i) the number or percentage of students who use drugs or alcohol;

"(ii) the grade level of those students;

"(iii) the types of drugs they use; and

"(iv) how the applicant obtained this information;

"(E) describe the applicant's drug and alcohol policy, including an explanation of—

"(i) the disciplinary practices and procedures it will strictly enforce to eliminate the sale or use of drugs and alcohol on school premises; and

"(ii) how it will convey to students the message that drug use is not permissible;

"(F) describe how the applicant will monitor the effectiveness of its program;".

(b) Section 4126 of the Act is further amended by adding at the end thereof the following new subsection:

"(b)(1) In order to receive funds under this Act for the third year of its plan, an applicant shall submit to the State educational agency a progress report on the first 2 fiscal years of its plan. The progress report shall describe in detail—

"(A) the applicant's significant accomplishments under the plan during the preceding 2 years; and

"(B) the extent to which the original objectives of the plan are being achieved, including the extent to which there has been a reduction in the number of students who use drugs and alcohol.

"(2) The State educational agency shall not award funds under this Act to an applicant for the third year of its plan unless the State educational agency determines that the applicant's progress report shows that it is making reasonable progress toward accomplishing the objectives of its plan and the purposes of this Act. If the State educational agency determines that reasonable progress is not being made, the State educational agency shall instruct the applicant in writing to modify its plan so as to provide reasonable assurance of such progress. If after 90 days the applicant has not submitted to the State educational agency a modified plan which provides such assurance, the State educational agency may reallocate the applicant's funds to other applicants on the basis of need.".

SEC. 425. STATE PROGRAM—REPORTS.

Part 2 of the Act is amended by adding at the end thereof the following new section:

"SEC. 4127. STATE REPORTS.

"Each State shall submit to the Secretary an annual report, at such time and in such form as the Secretary may prescribe, that contains information on the State or local programs the State conducts under this subtitle, including—

"(1) data on the number and characteristics of program recipients and the persons who participated in their programs; and

"(2) an assessment of the degree to which those programs accomplished their goals, including their impact upon drug and alcohol use by students.".

SEC. 426. NATIONAL PROGRAMS—GRANTS AND CONTRACTS.

(a) The third sentence of section 4132(b) of the Act is amended by inserting "directly, or through grants, cooperative agreements, or contracts" immediately after "shall".

(b) Section 4134(a) of the Act is amended by striking out "enter into" and inserting in lieu thereof "make grants to or enter into cooperative agreements or".

(c) Section 4135 of the Act is amended by inserting a comma and "through grants, cooperative agreements, or contracts," immediately after "Secretary".

SEC. 427. EVALUATION.

Section 4132(d) of the Act is amended by adding at the end thereof the following new sentence: "In addition, the Secretary may conduct periodic evaluations of programs authorized by this Act.".

SEC. 428. GOVERNOR'S PROGRAM—ADMINISTRATIVE COSTS.

Section 4122 of the Act is amended by adding at the end thereof the following new subsection:

"(c) Not more than 2.5 percent of the amount reserved under section 4121(a) shall be available to pay for the administrative costs of the chief executive officer in meeting his or her responsibilities under this part.".

SEC. 429. GOVERNOR'S PROGRAM—HIGH RISK YOUTH.

Section 4122(b)(1) of the Act is amended—

(1) in the first sentence therein by inserting "that are designed" immediately before "for high risk youth."; and

(2) by adding immediately after the first sentence therein the following new sentence: "A small number of individuals who are not high risk youth may participate in such programs if their participation does not significantly diminish the amount or quality of services provided to high risk youth.".

SEC. 430. LOCAL PROGRAMS—DRUG TREATMENT.

Section 4125(a)(5) of the Act is amended to read as follows:

"(5) referral programs for drug abuse treatment and rehabilitation;".

SEC. 431. EFFECTIVE DATE.

(a) The provisions of this subtitle shall take effect 30 days from the date of enactment of this Act.

(b) Notwithstanding subsection (a), a State educational agency may allot fiscal year 1989 funds to local and intermediate educational agencies and consortia under section 4124(a) of the Act on the basis of their relative numbers of children in the school-aged population.

TITLE V—NATIONAL DRUG ENFORCEMENT AGENCY REORGANIZATION AND COORDINATION

Subtitle A—Establishment of Office of Enforcement and Border Affairs in Department of Treasury

SEC. 501. SHORT TITLE.

This title may be cited as the "National Border Coordination and Reorganization Act of 1988".

SEC. 502. DEFINITIONS.

As used in this title—

(1) the term "Office" means the Office of Enforcement and Border Affairs of the Department of the Treasury established by part A of this title;

(2) the term "Commandant" means the Commandant of the Coast Guard;

(3) the term "Secretary" means the Secretary of the Treasury;

(4) the term "Under Secretary" means the Under Secretary of the Treasury for Enforcement and Border Affairs appointed under section 5102(a); and

(5) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

PART A—ESTABLISHMENT AND OFFICERS

SEC. 503. ESTABLISHMENT OF OFFICE.

There is established within the Department of the Treasury an office to be known as the Office of Enforcement and Border Affairs, which shall consist of—

(1) the office in the Department of the Treasury known on the day before the date of the enactment of this Act as the Office of the Assistant Secretary of the Treasury for Enforcement; and

(2) the Coast Guard, as transferred by section 508.

SEC. 504. UNDER SECRETARY FOR ENFORCEMENT AND BORDER AFFAIRS.

(a) The head of the Office of Enforcement and Border Affairs established by section 503 shall be the Under Secretary of the Treasury for Enforcement and Border Affairs, who shall—

(1) be appointed by the President, by and with the advice and consent of the Senate; and

(2) report directly to the Secretary of the Treasury.

(b) The Under Secretary shall be paid at the rate of basic pay payable for level III of the Executive Schedule.

SEC. 505. OFFICE OF BORDER MANAGEMENT AFFAIRS.

(a) There shall be within the Office of Enforcement and Border Affairs an office to be known as the Office of Border Management Affairs.

(b)(1) The head of the Office of Border Management Affairs shall be the Assistant Secretary of the Treasury for Border Management Affairs, who shall—

(A) be appointed by the President, by and with the advice and consent of the Senate; and

(B) report directly and be responsible to the Under Secretary.

(2) The Assistant Secretary of the Treasury for Border Management Affairs shall be responsible for overseeing all activities of agencies and personnel under the jurisdiction of the Office of Enforcement and Border Affairs, other than activities relating directly to narcotics interdiction.

(3) The Assistant Secretary of the Treasury for Border Management Affairs shall be paid at the rate of basic pay payable for level IV of the Executive Schedule.

SEC. 506. OFFICE OF NARCOTICS INTERDICTION.

(a) There shall be within the Office of Enforcement and Border Affairs an office to be known as the Office of Narcotics Interdiction.

(b)(1) The head of the Office of Narcotics Interdiction shall be the Assistant Secretary of the Treasury for Narcotics Interdiction, who shall—

(A) be appointed by the President, by and with the advice and consent of the Senate; and

(B) report directly and be responsible to the Under Secretary.

(2) The Assistant Secretary of the Treasury for Narcotics Interdiction shall be responsible for overseeing all narcotics interdiction activities of agencies and personnel under the jurisdiction of the Office of Enforcement and Border Affairs.

(3) The Assistant Secretary of the Treasury for Narcotics Interdiction shall be paid at the rate of basic pay payable for level IV of the Executive Schedule.

SEC. 507. CONFORMING AMENDMENTS.

(a) Section 301(e) of title 31, United States Code, is amended by striking "7" the first place that number appears and inserting in lieu thereof "9".

(b) Section 5314 of title 5, United States Code, is amended by inserting after "Under Secretary of the Treasury (or Counselor)." the following:

"Under Secretary of the Treasury for Enforcement and Border Affairs.".

(c) Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of the Treasury (7)" and inserting in lieu thereof the following:

"Assistant Secretaries of the Treasury (9).".

PART B—TRANSFER OF COAST GUARD TO OFFICE OF ENFORCEMENT AND BORDER AFFAIRS

SEC. 508. TRANSFER OF COAST GUARD.

(a) With respect to operation of the Coast Guard other than as a service in the Navy, the Coast Guard is transferred from the Department of Transportation to the Office of Enforcement and Border Affairs of the Department of the Treasury.

(b) Nothing in this title shall be considered to affect—

(1) the operation of the Coast Guard as a service in the Navy; or

(2) the respective duties, with respect to the Coast Guard, of the Secretary of Defense and the Secretary of the Navy.

SEC. 509. TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.

(a) The civilian personnel of the Department of Transportation employed in connection with the Coast Guard, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Department of Transportation in connection with the Coast Guard and the functions and offices transferred by this part, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Office for appropriate allocation by the Secretary. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorised and appropriated.

(b)(1) The transfer under this part of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer to the Office.

(2) Any person who, on the day preceding the effective date of this part, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Office to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(c)(1) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, shall make such determinations as may be necessary with regard to the functions, offices, or portions thereof transferred by this part, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, or portions thereof, as may be necessary to carry out this part.

(2) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget may, at such time as the Director of the Office of Management and Budget provides, make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions and offices transferred by this part.

SEC. 510. SAVINGS PROVISIONS.

(a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, the Commandant, any Federal entity or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this part, and

(2) which are in effect at the time this part takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Commandant, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b)(1) This part shall not affect any proceeding, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this part before any Federal entity and applications, to the extent that they relate to functions transferred under this part, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this part had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Commandant, the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this part had not been enacted.

(2) The Secretary may promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Office.

(c) No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any department or agency, functions of which are transferred by this part, shall abate by reason of the enactment of this part. No cause of action by or against any department or agency, functions of which are transferred by this part, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this part.

(d)(1) Except as provided in paragraph (2)—

(A) this part shall not affect suits commenced before the effective date of this part, and

(B) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this part had not been enacted.

(2) If, before the date on which this part takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this part any function of such department, agency, or officer is transferred, then such suit shall be continued with the Secretary or other appropriate official of the Office substituted or added as a party.

(e) Orders and actions of the Commandant and the Secretary in the exercise of functions transferred under this part shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions immediately preceding their transfer.

(f) Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this part shall apply to the exercise of such function by the Commandant or the Secretary.

SEC. 511. REFERENCE.

With respect to any function transferred by this part and exercised on or after the effective date of this part, reference in any other Federal law to the Secretary of Transportation shall be deemed to refer to the Secretary of the Treasury.

SEC. 512. TRANSITION.

With the consent of the Secretary of Transportation, the Commandant and the Secretary may use the services of such officers, employees, and other personnel of the agencies or offices from which functions or offices have been transferred and funds appropriated to such functions or offices for such period of time as may reasonably be needed to facilitate the orderly implementation of this part.

SEC. 513. BUDGET FUNCTIONAL CATEGORY FOR COAST GUARD.

(a) PRESIDENT'S BUDGET.—For fiscal years beginning with the fiscal year 1990, the President shall, in accordance with section 1104(c) of title 31, United States Code, include the Coast Guard (including all accounts funding the operations and activities of the Coast Guard) within functional category 750 for purposes of the budget of the United States Government submitted by the President pursuant to section 1105 of title 31, United States Code.

(b) BUDGET RESOLUTION.—Any concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974 for fiscal years beginning with fiscal year 1989 shall use functional category 750 established by the President under subsection (a) in specifying the appropriate level of new budget authority and budget outlays for the Coast Guard.

SEC. 514. EFFECTIVE DATE.

This part shall take effect 30 days from the date of enactment of this Act.

Subtitle B—Department of Defense Drug Interdiction Reorganization

SEC. 520. DRUG INTERDICTION SUPPORT.

(a) Section 136 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(e) Within the Office of the Assistant Secretary of Defense for International Security Affairs there shall be a Deputy Assistant Secretary of Defense for International Drug Interdiction and Enforcement who shall be appointed from civilian life by the President, with the advice and consent of the Senate. Subject to the supervision and control of the Assistant Secretary of Defense for International Security Affairs, the Deputy Assistant Secretary shall have as his principal duty the overall supervision (including oversight of policy and resources) of Department of Defense drug interdiction and enforcement activities (as defined in section 381 of this title).".

(b) Chapter 18 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 381. Drug interdiction and enforcement activities; definition

"Department of Defense drug interdiction and enforcement activities are those activities conducted in cooperation with civilian law enforcement officials under the provisions of sections 371-379, inclusive, of title 10, United States Code.".

(c) The table of sections at the beginning of chapter 18, of title 10, United States Code, is amended by adding at the end the following:

"381. Drug interdiction and enforcement activities; definition.".

(j) To the extent that any debt collection targets established by the Secretary of the Treasury under subsection (l) of this section for an executive agency for a fiscal year are exceeded by such agency (not including additional collections), 15 percent of the amount by which such agency exceeds the targets for such fiscal year shall be made available to the executive agency as additional program funding for the particular program or activities involved in the debt collection activity. The balance of the delinquent debts, other than additional collections, collected under this section shall be returned to the Treasury of the United States and shall be used to reduce the public debt. An amount equal to the amount of such delinquent debts collected as additional collection is appropriated to the Antidrug Abuse Fund established by section 9511 of subchapter A of chapter 98 of the Internal Revenue Code of 1986.

(k) To the extent that any debt collection targets established by the Secretary of the Treasury under subsection (b) of this section for an executive agency for a fiscal year are not met by such executive agency, the amounts that were appropriated for the programs or activities at the executive agency failing to meet such targets shall be reduced by an amount equal to 15 percent of the difference between the amount collected by the executive agency toward its debt collection target and the actual debt collection target established by the Secretary of the Treasury under subsection (l) of this section.

(l) The Secretary of the Treasury shall promulgate regulations which prescribe standards for use by executive agencies in developing proposals for debt collection targets. Such standards shall require executive agencies to consider, for each program or activity, such factors as—

(1) the characteristics of the debts and debtors involved;

(2) the historical experience of the agency, other government agencies, and the private sector in the collection of similar types of debt;

(3) the rates of delinquency and default;

(4) planned improvements in the agency's debt collection programs; and

(5) such other factors as the Secretary of the Treasury considers appropriate.

(m) Officers and employees of executive agencies responsible for the management of debt collection programs shall be held accountable (as part of the performance standards to be established under subsection (c)) for establishing and periodically reviewing and revising procedures and targets that comply with the requirements of this section and the regulations of the Secretary of the Treasury.

(n) Any reductions to executive agency appropriations under this section shall be reported in detail to the Congress by the Secretary of the Treasury and shall be included in detail in all budget justifications presented by the executive agency to the Congress.

(o) Section 3711(f) of title 31, United States Code, is amended by—

(1) striking out "may" after "legislative agency" in paragraph (1) and inserting in lieu thereof "shall"; and

(2) striking out "may" after "system" in subparagraph (A) of such paragraph and inserting in lieu thereof "shall".

(p) Section 3718(a) of title 31, United States Code, is amended by—

(1) inserting "to augment agency collection efforts" after "appropriate";

(2) striking out "may" after "head of the agency" and inserting in lieu thereof "shall";

(3) striking out "; and" at the end of paragraph (1);

(4) striking out the period at the end of paragraph (2)(B) and inserting in lieu thereof "; and"; and

(5) inserting after paragraph (2) the following new paragraph:

"(3) the person will submit to the agency status reports on the success of such person in collecting such debts at least once every six months.".

(q) Section 5514(a) of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(5) This subsection does not apply to intragency deductions for routine administrative overpayments which are the result of clerical or administrative error or delays in the processing of pay documents, and which are rarely controversial or disputed. With respect to these routine adjustments of pay, the agency should afford the individual reasonable opportunity to dispute the deduction. Such opportunity need not be provided prior to making the deduction.

"(6) No claim may be collected under the authority of paragraph (1) of this subsection at any time after 10 years after the claim first accrues.".

(r) Section 6103(m)(2)(A) of the Internal Revenue Code of 1986 is amended—

(1) by inserting before the period a comma and "or other statutory authorities granting agencies independent claims collection authority"; and

(2) by striking out "the Secretary may" and inserting in lieu thereof "the Secretary shall".

(s) Section 3719 of title 31, United States Code, is amended—

(1) by striking out "the Director of the Office of Management and Budget" in subsection (a) and inserting in lieu thereof "the Under Secretary of the Treasury for Debt Collection and Loan Management";

(2) by striking out "Director" each place it appears in subsections (a) and (b) and inserting in lieu thereof "Under Secretary";

(3) by striking out "and the Secretary at least once each year" in subsection (a) and inserting in lieu thereof "in accordance with regulations issued by the Under Secretary under section 3603 of this title";

(4) by striking out "and" at the end of subsection (a)(1)(E);

(5) by inserting "and" after the semicolon in subsection (a)(1)(F);

(6) by inserting after subparagraph (a)(1)(F) the following new subparagraph:

"(G) the agency's progress in implementing chapters 36 and 37 of this title, and the agency's monetary and programmatic goals for improving collections and reducing delinquencies and writeoffs;"; and

(7) by striking out "and shall report annually to Congress on the management of debt collection activities by the head of each agency" in subsection (b) and inserting in lieu thereof "and shall prepare (for inclusion in the budget submissions required by section 1105 of this title) a detailed statement of the Under Secretary's evaluation of each agency's implementation of its debt collection and loan management responsibilities for each debt collection and credit program administered by the agency".

(t) Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(26) a separate statement for each agency and program contains the information specified in section 3719(b) of this title.".

(u) Section 3701(b) of title 31, United States Code, is amended to read as follows:

"(b) In subchapter II of this chapter, the terms 'debt' and 'claim' mean any amount owed to the Government, except that such term does not include any amounts owed by one agency to another agency, and except as otherwise provided by law.".

SEC. 1006. TRUST FUND.

Subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new section:

"SEC. 9511. ANTIDRUG ABUSE TRUST FUND.

"(a) CREATION OF TRUST FUND.—

"(1) IN GENERAL.—There is hereby established in the Treasury of the United States a trust fund to be known as the "Antidrug Abuse Trust Fund".

"(2) ACCOUNTS IN TRUST FUND.—The Antidrug Abuse Trust Fund shall consist of such amounts as may be appropriated, credited, or paid to it as provided in this section.

"(b) APPROPRIATIONS.—

"(1) TRANSFER OF CERTAIN TAXES TO ACCOUNT.—There is hereby appropriated to the Antidrug Abuse Trust Fund amounts equivalent to the following amounts received in the Treasury on or after October 1, 1988—

"(A) the additional amounts of collections resulting from the enforcement activities of the additional personnel provided under sections 1001, 1002, 1003, and 1004 of the Omnibus Antidrug Abuse Act of 1988 which is over and above that assumed with respect to such collections in the Omnibus Budget Reconciliation Act of 1987 and the Joint Resolution making further continuing appropriations for the fiscal year 1988, and for other purposes, approved December 22, 1987, and

"(B) the additional collections referred to in section 1006 of the Antidrug Abuse Act of 1988.

"(2) EXPENDITURES FROM FUND.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, to carry out the purposes of the Omnibus Antidrug Abuse Act of 1988.".

SUMMARY ANALYSIS OF THE OMNIBUS ANTI-DRUG ACT OF 1988

TITLE I—DRUG ENFORCEMENT AND PERSONNEL ENHANCEMENT

Subtitle A. Asset Forfeiture Fund Amendments Act of 1988:

Makes certain changes to the Treasury and Justice Department Asset Seizure funds to allow those funds to be more easily provided to state and local agencies which contributed to the seizure.

Allows some of those funds from the Justice account to be used for prison construction.

Removes caps from those funds and takes the use of those funds off-budget.

Subtitle B. State and Local Narcotics Control Assistance:

Authorizes the Bureau of Justice Assistance (which expires this year) and requires that the BJA Administrator be appointed by the President with the advice and consent of the Senate.

Requires each state to submit a "master" plan or strategy which encompasses demand reduction, education, and law enforcement programs and delineates 30 different purposes for which these funds can be used.

Establishes an expedited grant system for metropolitan areas with a population over 500,000.

Provides accountability by implementing reporting and feedback requirements (providing funds to carry out the same), while identifying those programs whch are successful, with the intent of encouraging similar programs.

Sets up a three-year approach by which a program funded in the first year would receive the same funding for the following two years, and authorizes $250 million the first year. $500 million the second year, and $750 million in the third year.

$5 million and 96 FTE to allow BJA to implement this grant program.

Subtitle C. Chemical Diversion and Trafficking Act of 1988:

Identical to H.R. 2585, a bill to suppress the diversion and trafficking of precursor chemical and other chemicals used in the illicit manufacture of controlled substances.

Subtitle D. Comprehensive Federal Law Enforcement officer Improvements Act of 1988:

Makes certain provisions for law enforcement officers, including increased death benefits for all federal, state, and local officers.

Establishes a National Advisory Commission on Law Enforcement to examine pay and benefits and report to the President within six months.

Subtitle E. Deportation of Convicted Foreign Drug Inmates:

Provides for the deportation of "violent criminal aliens" who have been convicted of an aggravated violent felony, while providing safeguards.

Subtitle F. Customs Enforcement Amendments Act of 1988:

Provides for the inspection of vessels by Customs officers under certain conditions on the high seas.

Clarifies current law regarding transfer of seized assets to contributing state and local law enforcement agencies and foreign governments.

Authorizes the Secretary of State to revoke the passport of any individual convicted of a felony narcotics violation.

Subtitle G. Authorization of Additional Appropriations for Drug Enforcement Personnel, Fiscal Year 1989:

Coast Guard. $45 million and 800 FTE's above the President's request.

Customs. $30 million and 600 FTE above President's budget

Border Patrol. $20 million and 500 FTE's above President's request.

INS. $19 million and 225 criminal and organized crime investigator FTE's above President's request.

ATF. $8 million and 140 FTE's over President's request, including 10 FTE's to establish a Bureau of Alcohol, Tobacco, and Firearms Drug Educations officers program, and certain reimbursements for state and local personnel.

DEA. $60 million and 224 FTE's above the President's request, including five FTE's for program similar to above.

FBI. $38 million and 400 FTE's above the President's request, including five FTE's for program similar to above.

Marshals Service. $73.8 million above the President's request to be used as follows:

1. $11.5 and 230 FTE's for asset seizure and forfeiture activities;
2. $30.7 and 20 FTE's for jail cell renovations including Cooperative Agreement Program projects;
3. $10 million and 188 FTE's for criminal justice support activities;
4. $6.2 million and 104 FTE's for protection of the federal judiciary and federal courts due to increased drug-related trials;
5. $4.6 million and 60 FTE's for Witness Security Program; and
6. $10.8 and 139 FTE's for fugitive programs.

$10 million and 200 FTE for additional U.S. Attorneys.

Authorizes $150 million for new federal prison construction.

Subtitle H:

Authorizes rewards for information on narcotics fugitives.

Prohibits dangerous weapons in federal courthouses.

Authorizes payments to state and local jurisdictions for the housing and care of persons in Marshals Service custody.

TITLE II. INTERNATIONAL NARCOTICS CONTROL AND ASSISTANCE TO FOREIGN COUNTRIES

Subtitle A. International Drug Eradication Improvement Program:

Establishes an International Special Operations Drug Eradication Squadron within State for use in source countries.

Authorized an additional $12 million for the procurement of aircraft, equipment, O&M, and salaries and expenses for the Squadron.

Requires the Secretary of State to establish strict criteria and guidelines for employing the squadron.

Subtitle B. International Narcotics Matters Improvement and Special Assistance Programs:

Establishes a three-year economic assistance grant program under AID for source countries which meet specific eradication goals (15 percent verifiable in the first year, 40 percent by the third year to be determined by DEA).

Authorizes $200 million for the program for each of the three years.

Directs the Comptroller General to monitor the program, and provides for a panel of Administration and Congressional representatives to assess the program after three years.

Subtitle C. Amendments to Foreign Assistance Act of 1961, as Amended:

Implements certain changes to the reporting requirements of the Act concerning the cooperation of source and transshipment countries in narcotics control.

Subtitle D. International Narcotics Matters Authorization of Appropriations:

Authorizes $138 million in the first year and $150 million for the second year for INM, including:

$500,000 to be used for coca eradication research;

$900,000 to provide protective equipment for aircraft used in narcotic eradication and interdiction efforts in source or transshipment countries upon notification of Congress; and

$2 million to be used for training in foreign countries relating to narcotics control.

Allows funds withheld from non-cooperating countries to be used for narcotics control in cooperating countries.

Provides certain assistance for Bolivia; limits and conditions amount of funds which can be made available to Mexico; provides other foreign assistance programs involving education and reporting.

Subtitle E. Latin American Anti-Drug Strike Force:

Creates within State an Ambassador at Large and Coordinator for Western Hemisphere Anti-Drug Efforts.

Directs the Joint Chiefs of Staff to develop a plan for a Latin American strike force to eradicate and interdict narcotics in the Western Hemisphere (outside the U.S. and its territories).

Would involve Latin American personnel using U.S.-provided resources.

TITLE III. DRUG INTERDICTION ASSET IMPROVEMENT AND ENHANCEMENT

Subtitle A. Coast Guard:

Provides $186 million for marine and air interdiction assets and for O&M.

Subtitle B. Customs:

Provides $110 million for Air Interdiction assets and $15 million for salaries and expenses.

Subtitle C. Department of Defense:

Provides $75 million for four aerostats, $15 million for surveillance flights and related purposes, and $10 million for assets in establishing the Latin American Strike Force.

Subtitle D. DEA:

Provides $48 million for the establishment of an International Drug Interdiction helicopter force similar to OPBAT; $4 million will go to EPIC for enhancing tactical intelligence.

Subtitle E. INS/Border Patrol:

$20 million for Border Patrol equipment.

Subtitle F. Establishment of Interagency Southwest Border Drug Interdiction Mobile Corridor Task Force:

Provides $15 million for 100 Border Patrol, 25 Customs, and 25 DEA agents assigned to two mobile corridor operations forces, with line authority given to joint commanders.

Subtitle G. U.S.-Bahamas Drug Interdiction Task Force:

Authorizes $13 million for joint efforts.

Subtitle H. Special Drug Interdiction Support:

Authorizes grant programs for procurement of assets to Puerto Rico—$7 million, Jamaica—$7 million, Dominican Republic—$5 million, Hawaii—$7 million.

TITLE IV. DEMAND REDUCTION

Subtitle A. Treatment and Rehabilitation:

Authorizes $20 million for grants to emphasize community based residential treatment services such as halfway houses and therapeutic communities, including the purchase of land and construction of facilities.

Subtitle B. Alcohol and Drug Abuse Treatment and Rehabilitation Act of 1988:

Authorizes $558 million in first year, and $583 million in the second year, and $608 million in the third year for Alcohol, Drug Abuse and Mental Health Bloc Grant program.

Authorizes $600 million in the first year, $625 million in the second year, $650 million in the third year for Substance Abuse Emergency Drug Treatment Programs.

Subtitle C. Drug-Free Schools and Communities Act Amendments of 1988:

Authorizes $300 million in the first year, $350 million in the second year, and $350 million in the third year with specific reporting and accountability requirements.

TITLE V. NATIONAL DRUG ENFORCEMENT AGENCY REORGANIZATION AND COORDINATION

Subtitle A. National Border Coordination and Reorganization Act of 1988:

Establishes Office of Enforcement and Border Affairs within the Department of the Treasury, and places Coast Guard and Customs within that office.

Subtitle B. Department of Defense Drug Interdiction Reorganization:

Establishes within ISA a Deputy Assistant Secretary for International Drug Interdiction and Enforcement with the overall duty of DoD drug interdiction and enforcement activities.

TITLE VI. RESEARCH AND DEVELOPMENT FOR LAW ENFORCEMENT AGENCIES

Subtitle A. Establishment of New Research and Development Programs to Assist Federal Law Enforcement Agencies:

Directs the establishment of a Research and Technology Group under the National Drug Policy Board and creates an advisory board to report to the Group.

Designates 8 existing facilities under the Departments of Defense, Justice, and Energy and other agencies as "National Technology Development Centers" to develop technologies for federal law enforcement applications.

Subtitle B. Cargo Container Drug Detection Research and Development:

Authorizes $5 million for developing technology.

TITLE VII. DRUG ENFORCEMENT TRAINING IMPROVEMENT

Subtitle A. The Federal Law Enforcement Training Center Improvement Act of 1988.

Expands and improves the Federal Law Enforcement Training Center, and provides an additional $10 million for fiscal 89, a total of $45 million in fiscal 90, and a total of $50 million in fiscal 91.

Subtitle B. Department of Justice Training Facilities Improvement Act of 1988:

Provides an additional $10 million for existing Justice facilities and $10 million for new facilities.

Subtitle C.

Provides a total of $11 million to establish a foreign language training program for special agents of federal civilian drug enforcement agencies within the Departments of Defense and State.

Subtitle D. Special Training Centers:

Provides $10 million for the establishment of a National Training Center in El Reno, Oklahoma, to train Federal, State, and local prison officials in drug rehabilitation programs targeted to criminals convicted of drug-related crimes.

TITLE VIII. DRUG TESTING IN THE PRIVATE WORKPLACE

Requires that laboratories performing drug testing for the private workplace meet certain minimum standards, and that no action be taken against an employee or applicant based on a test from a laboratory not meeting those minimum standards.

TITLE IX. CONGRESSIONAL POLICY REGARDING ADDITIONAL FUNDING FOR FISCAL YEAR 1989 FOR ANTI-DRUG ABUSE PROGRAMS

Provides for the continuity of funding for the programs authorized in the Act and establishes framework for partial offset of cost.

Cost Breakdown of Omnibus Anti-Drug Abuse Act of 1988

(Note: These Figures Represent the Increase Over the President's Fiscal Year 1989 Budget Request, Unless Otherwise Noted.) These Are Estimates of Budget Authority

Title I: Drug Enforcement and Personnel Enhancement

Subtitle A: Asset Forfeiture Fund Amendments Act of 1988.

No new budget authority required to implement.

Subtitle B: State and Local Narcotics Control Assistance.

Estimated Cost: $250,000,000 FY 1989 (Total funding), 500,000,000 FY 1990 (Total funding): 750,000,000 FY 1991 (Total funding); and 5,000,000 FY 1989 (96 FTE/BJA).

Subtitle C: Chemical Diversion and Trafficking Act of 1988.

No new budget authority required to implement.

Subtitle D: Comprehensive Federal Law Enforcement Officer Improvements Act of 1988.

Estimated Cost: $10,000,000 (covers increased death benefits and Commission).

Subtitle E: Deportation of Convicted Foreign Drug Inmates.

No new budget authority required to implement.

Subtitle F: Customs Enforcement Amendments Act of 1988.

No new budget authority required to implement.

Subtitle G: Authorization of Additional Appropriations for Drug Enforcement Personnel, FY 1989.

Estimated Cost: Coast Guard: $45,000,000/800 FTE; Customs Service: $30,000,000/600 FTE; Border Patrol: $20,000,000/500 FTE; and INS Criminal Investigators: $3,000,000/50 FTE.

INS OCDETF agents: $16,100,000/175 FTE; BATF: $8,000,000/140 FTE; DEA: $60,000,000/224 FTE; FBI: $38,000,000/400 FTE; Marshals Service: $73,800,000/741 FTE; and U.S. Attorneys: $10,000,000/200 FTE.

Subtotal: $303,900,000/3,830 FTE.

(Note: FTE = full-time equivalent positions.)

Estimated Cost: Federal Prison System construction: $200,000,000 FY 1989.

Subtitle H: Miscellaneous Law Enforcement Provisions.

Estimated Cost: $1,000,000 for President's Media Commission on Alcohol and Drug Abuse Prevention.

Title II: International Narcotics Control and Assistance to Foreign Countries

Subtitle A: International Drug Eradication Improvement Program.

Estimated Cost: $12,000,000 FY 1989.

Subtitle B: International Narcotics Matters Improvement and Special Assistance Programs.

Estimated Cost: $200,000,000 FY 1989, 1990, & 1991 each.

Subtitle C: Amendments to Foreign Assistance Act of 1961, As Amended.

No new budget authority required to implement.

Subtitle D: International Narcotics Matters Authorization of Appropriations.

Estimated Cost: $30,000,000 FY 1989, $150,000,000 total funding, FY 1990, 1,000,000 A.I.D. drug education program.

Subtitle E: Latin American Antidrug Strike Force.

Estimated Cost: $10,000,000 start up costs, funded in Department of Defense portion of Title III, Drug Interdiction Asset Improvement and Enhancement.

Title III: Drug Interdiction Asset Improvement and Enhancement

Subtitle A: Coast Guard: $186,000,000 FY 1989.

Subtitle B: Customs Service: $125,000,000 FY 1989.

Subtitle C: Department of Defense: $90,000,000** (**Also, $10,000,000 for Latin American Strike Force established in Title II.).

Subtitle D: Drug Enforcement Administration: $48,000,000.

Subtitle E: Border Patrol: $20,000,000.

Subtitle F: Interagency S.W. Border Drug Interdiction Mobile Corridor Task Force: $15,000,000/150 FTE, incl. 100-Border Patrol; 25-DEA; and 25 Customs.

Subtitle G: U.S. Bahamas Drug Interdiction Task Force: $13,000,000.

Subtitle H: Special Drug Interdiction Support: $26,000,000, including: $7,000,000-Puerto Rico; $7,000,000-Jamaica; $5,000,000-Dominican Republic; and $7,000,000-Hawaii.

Title IV: Demand Reduction

Subtitle A: Treatment and Rehabilitation.

Estimated Cost: $20,000,000 FY 1989.

Subtitle B: Alcohol and Drug Abuse Treatment and Rehabilitation

Estimated Cost: Basic Block Grant Program: ADAMHA: $50,000,000 over President, FY 1989 (Total of $558,860,000).

Basic Block Grant Program: ADAMHA $583,000,000 total, FY 1990.

Basic Block Grant Program: ADAMHA $608,000,000 total, FY 1991.

Emergency drug treatment grants: $435,000,000 over President, FY 1989.

Emergency drug treatment grants: $625,000,000 over President, FY 1990.

Emergency drug treatment grants: $650,000,000 over President, FY 1991.

Subtitle C: Amendments to Drug-Free Schools and Communities Act.

Estimated Cost: $50,000,000 over President, FY 1989; $350,000,000 total, FY 1990; and $350,000,000 total, FY 1991.

Title V: National Drug Enforcement Agency Reorganization and Coordination

Subtitle A: Office of Enforcement and Border Affairs.

No new budget authority required to implement.

Subtitle B: Department of Defense Drug Interdiction Reorganization.

Estimated Cost: $100,000 FY 1989.

Subtitle C: Establishment of Senate Select Committee on Narcotics Abuse and Control.

Estimated Cost: $400,000 FY 1989; $500,000 FY 1990; $600,000 FY 1991.

Title VI: Research and Development for Law Enforcement Agencies

Subtitle A: Establishment of New Research and Development Programs to Assist Federal Law Enforcement Agencies.

Estimated Cost: $-0- FY 1989; $70,000,000 FY 1990.

Subtitle B: Cargo Container Drug Detection Research and Development.

Estimated Cost: $5,000,000 FY 1989.

Title VII: Drug Enforcement Training Improvement

Subtitle A: Federal Law Enforcement Training Center.

Estimated Cost: $10,000,000 over President, FY 1989; $45,000,000 total, FY 1990, and $50,000,000 total, FY 1991.

Subtitle B: Department of Justice Training Facilities Improvement Act of 1988.

Estimated Cost: $10,000,000 over President, FY 1989 for expansion of existing facilities, and $10,000,000 over President, FY 1989 for new training facilities.

Subtitle C: Federal Law Enforcement Language Training Improvement Act of 1988.

Estimated Cost: $11,000,000 over President, FY 1989.

Subtitle D: Establishment of National Training Center in El Reno, Oklahoma.

Estimated Cost: $10,000,000 over President, FY 1989.

Title VIII: Drug Testing in the Private Sector

No new budget authority required to implement.

Title IX: Congressional Policy Regarding Additional Funding for Fiscal Year 1989 for Antidrug Abuse Programs

No new budget authority required to implement.

Title X: Funding; Accounts

Subtitle A: Offsetting Revenues and Savings to Cover the Cost of This Act.

Authorization of Additional Appropriations: Internal Revenue Service.

Processing Tax Returns: $4,675,000/186 FTE over President, FY 1989; Examinations and Appeals: $158,882,000/3,829 FTE over President, FY 1989.

Investigation, Collection, and Taxpayer Service: $123,056,000/2,827 FTE over President, FY 1989.

Estimated revenues from increased collections available to offset cost of this act: $1,120,000,000 FY 1989; $2,222,000,000 Fiscal Year 1990 over President's budget.

Authorization of Additional Appropriations: Bureau of Alcohol, Tobacco, & Firearms.

Salaries and Expenses, BATF: $4,000,000 over President, FY 1989.

Estimated revenues from increased enforcement of special occupational tax enforcement by agency: $130,000,000 FY 1989, $140,000,000 FY 1990.

Accelerated Collection of Delinquent Government Debt: Department of the Treasury.

Language in the bill that would mandate the collection of $2,000,000,000 over and above President's budget estimates for debt collection for fiscal year 1989: $2,000,000,000 additional debt collections over current estimates for fiscal year 1990.

Incentive program for agencies that exceed established debt collection targets; penalties for those agencies that fail to meet established debt collection targets.

Notes. All proceeds from the enhanced tax collections and debt collection payments would be deposited into a newly-established Anti-Drug Abuse Fund in Treasury; to be disbursed by the Secretary of the Treasury to the agencies responsible for funding the programs, projects, activities, and initiatives authorized in this bill.

Total cost of Omnibus Anti-Drug Abuse Act of 1988: $2,157,400,000 FY 1989 (Does Not Include Additional Funding Required to Collect Additional Revenues/Debt Collection).

Amount of additional tax collections/debt collections deposited into special fund to cover cost of this act: $3,250,000,000 fiscal year 1989; $4,362,000,000 fiscal 1990.

Total cost of Omnibus drug bill, including additional staff/$$ for increased tax and debt collections: $2,448,013,000.

Total additional revenues available in FY 1989 to cover cost of omnibus drug bill: $3,250,000,000.

Difference: $801,987,000.

SUMMARY OF COSTS: DRUG BILL

Title I: $769,900,000.
Title II: 253,000,000.
Title III: 523,000,000.
Title IV: 555,000,000.
Title V: 500,000.
Title VI: 5,000,000.
Title VII: 51,000,000.
Title VIII: 000.
Title IX: 000.
Title X: 290,613,000.

Total new budget authority: Omnibus Anti-Drug Abuse Act, 1988 $2,448,013,000

−$3,250,000,000 additional revenues available to cover cost of Omnibus Anti-Drug Abuse Act of 1988.

Net cost: −801,987,000.

Other notes: Bill authorizes hiring of 4,076 full time positions for law enforcement, U.S. Attorneys; and support personnel. These are positions over and above President's fiscal year 1989 budget request of February 18, 1988.

Additional staffing of 6,842 at I.R.S. and 40 at BATF to collect additional revenue.

● Mr. MOYNIHAN. Mr. President, President Reagan was quoted in Time magazine of March 14, 1988, as having said on February 29, 1988, that "The tide of battle has turned, and we are beginning to win the crusade for a drug-free America." Indeed. Smuggling of cocaine and heroin into the United States nearly doubled between 1981 and 1986, according to the Office of Technology Assessment.

The Omnibus Anti-Drug Abuse Act of 1988 is based on the proposition that the Federal Government should assume as a normal function the arrest, prosecution, and punishment of narcotics dealers. It is elemental. To help the Federal Government meet this responsibility, our bill authorizes much-needed funding increases for the Coast Guard, Customs Service, Border Patrol, Drug Enforcement Agency, and the Federal Bureau of Investigation.

In addition, the Omnibus Anti-Drug Abuse Act of 1988 resurrects an important program which I have fought to maintain since the onset of the Reagan administration. That is the State and Local Narcotics Control Assistance Program—the heir to the Law Enforcement Assistance Administration. In 1984 and 1985, when President Reagan tried to eliminate it, I introduced legislation to save it. We were successful in doing so by including it in the Anti-Drug Abuse Act of 1986. However, the administration has cut its budget substantially since then and proposed to eliminate it entirely for fiscal year 1989.

Another important provision affects the numbers of drug law violators pending trial that have come to this country illegally. On the first day of the Congress, I introduced S. 48, the Criminal Alien Departure Act, to establish a pilot program whereby drug-law offenders would be given the option of a trial, at taxpayers expense, or be deported immediately. There is a similar provision in the bill we introduce today; a bill that will do much to help the Federal Government meet its responsibilities in the war against drugs.●

Mr. GRAHAM. Mr. President, last week I was in Florida visiting in a small community in the northern part of our State, Madison, FL. There I met with Sheriff Peevy, a long-time highly regarded law-enforcement official in our State. He told me that in that small community 85 percent of the persons who were incarcerated in the county jail were there because of a drug-related offense. They either had committed a drug-related crime or were supporing a drug habit.

Mr. President, this is not an issue that is exclusive to a handful of large communities in this Nation. This is not an issue which is exclusive to a few areas of geography that are especially exposed to drug trafficking from international sources. This is an issue which has come into the mainstream and the Main Streets of America. The strong steps which this legislation takes would be a statement of our national commitment to winning the war against drugs. I am concerned, Mr. President, that this is a war in which we have sent out mixed signals. The actions which were taken in 1987 in terms of sharp recommended reductions in the 1986 drug legislation would have been analogous to the United States, in 1942, having decided to surrender and retreat from the commitment that we made on December 8, 1941, in declaring war against the Axis. We need to see that our national security and victory in the war against drugs are common objectives. They are not separate issues. They are issues which must be seen as necessary victories for America if America is to realize its future.

Mr. President, I ask unanimous consent to submit for the RECORD an article from the Florida Times Union of March 13 of this year and an article from Newsweek of March 28 of this year outlining the drug situation in the city of Jacksonville, FL, as well as on a national front.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

CRACK FUELS FIRE OF ILLICIT ACTIVITY

(By Peggie I. Evans)

"You want to buy some?" asked G.G., one of hundreds who sell crack cocaine on the streets of Jacksonville.

Displaying a big wad of money pulled from his pocket., G.G., 19, said he makes $800 a week selling crack in Brentwood Park, a public housing project on the city's Northside.

Six months ago before entering the illicit drug trade, he said, he worked in a fast-food restaurant. G.G., unlike many who deal in crack, said he does not use drugs, and uses his money to buy clothes and for savings.

As the use of crack soars in Jacksonville, more and more people like G.G. are taking to the streets to make big money in a hurry, police say.

"These are people who found a way to make money fast," said Jerry Rinehart, head of federal Drug Enforcement Administration office of Northeast Florida. "Jacksonville was wide-open for it."

* * * * *

In a little more than a year's time, crack, an inexpensive, highly addictive form of cocaine that is smoked, has been designated as the Jacksonville Sheriff's Office No. 1 crime problem because of the violence and other crime it breeds.

"What was a minimum problem is now an epidemic," said Wayne Ellis, a special assistant state attorney in Jacksonville in charge of a division set up to prosecute major drug cases in Northeast Florida. Cocaine seizures here that used to measure in the ounces now measure in pounds, Ellis said.

Police blame crack, which accounts for 46 percent of all felony drug arrests in Jacksonville, in part for the city's burgeoning murder rate—the highest in Florida—and growing crime rate, the second highest in the state.

"The people who buy drugs here have to get money to buy drugs. They steal, they rob," said Captain W.K. David, head of the Sheriff's Office's narcotics division. "People don't rob a 7-Eleven for $50 for the profit" but for money to buy drugs, he said.

Crime is terrorizing Jacksonville's poor neighborhoods, where most of the city's crack is sold—usually openly on street corners—and where gunfights often break out. In one neighborhood, near Myrtle and 21st streets, seven people were shot to death within a few weeks time in late 1987.

Escalating crime and drug fights have turned some neighborhoods into virtual war zones, with residents fearful to leave their homes.

"We hear shooting at night. We don't know where it's coming from," said a gray-haired grandmother who has lived in her small, neat home in Springfield for 14 years.

"I used to feel safe living here," the woman said. Now, she said, "I'm scared to go out at night."

Springfield, once a neighborhood of mostly big, fine homes, is largely a rundown Northside neighborhood where many homes have been boarded up and abandoned. It is an area infested with drug dealers, with street pushers openly flagging down passers-by in an effort to make a sale.

"You walk two blocks and you get killed," screamed a man repeatedly to a visitor to the neighborhood.

"People are afraid of getting robbed or mugged if they leave their homes. And if

A JAMAICAN INVASION IN WEST VIRGINIA

With its tidy clapboard houses and neat apple and peach orchards on land George Washington surveyed centuries ago, Martinsburg, W.Va. (population: 13,000), seems far from the mean streets normally patrolled by drug gangs. But over the last three years, an invasion of Jamaican drug dealers has turned the home of the Mountain State Apple Harvest Festival into a mecca for cocaine.

The Jamaicans first arrived in Martinsburg as migrant workers to pick apples and peaches at harvest time, but many stayed on to peddle coke and crack. Hundreds squeezed into small apartments in a poor neighborhood called "the Hill" and transformed several blocks near the center of town into an open-air drug supermarket. Supplied by couriers shuttling between Jamaican gangs in Washington, Miami and New York, as many as 50 dealers could be found brazenly hawking dope in broad daylight, just three blocks from the police station. At times business was so brisk that intersections were clogged with traffic; many cars bore out-of-state license plates. The customers "were all ethnic groups, age groups and every profession," says police chief Jack Strobridge. "They came riding up on skateboards, on bikes, in Mercedes-Benz cars, in pickup trucks." Stores in the region mysteriously sold out of vitamin B; police soon figured out that dealers were using it to "cut" the cocaine. Then the Jamaicans introduced crack—and started a run on plastic food-storage bags used to package the drug.

Martinsburg's 28-man police force carried out small raids but were overwhelmed by the dealers. In a region where one or two murders per year was the norm, 20 homicides, all drug related, occurred in 18 months as rival dealers fought for control. Cases of venereal disease shot up as prostitutes imported by the dealers worked the streets. At local schools, students hired as drug couriers strutted around in expensive Nike jogging suits and gold chains, intimidating classmates and teachers. A police raid of a Jamaican dealer's house turned up crude photographs of a former homecoming queen posing half nude, pieces of crack lying about her. According to law-enforcement authorities, she later gave birth to a baby fathered by the dealer.

Needles and knives: Residents were virtually besieged in their homes. Theresa Shamburg was unable to leave her driveway without being offered "crack, cocaine or reefer" by pushers. Discarded needles and knives littered her front yard. She called police but they were unable to drive away the dealers. One night, when the Jamaicans outside became particularly raucous, Shamburg woke to see her husband crouched with a shotgun in one hand and a pistol in the other, grimly waiting for a break-in.

Under pressure from the community, local police asked the federal authorities for help. In fall 1986 some 200 agents from a special federal drug task force and local police raided 26 drug dens, arresting 35 dealers and seizing a cache of high-powered weapons. Police also found a "hit list" with the names of local judges and law-enforcement officials. The suspects arrested insisted the names were targeted only for a mystical curse by Jamaican witch doctors. Even so, three county magistrates began carrying guns for self-protection.

Street action: The raid pushed the most blatant dealers off the streets—at least for a while. Much of the street action moved down the road to Charles Town, 16 miles away. But many Jamaican dealers have kept up a flourishing underground trade in Martinsburg. On warm days, Theresa Shamburg once again sees dealers congregating across the street. The Shamburgs will not wait to see what happens next. After three years of trying, they have finally found an out-of-town buyer for their home. They are moving to a house in the country, but Shamburg suspects there is no escape. She says: "I really don't think it's safe anywhere anymore."

Mr. GRAHAM. Mr. President, finally I ask unanimous consent to join Senators D'AMATO, DECONCINI, and others of legislation providing for the death penalty for those who kill law enforcement officials during the commission of a drug-related crime.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that I be listed as a cosponsor on the drug bill.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

● **Mr. DOMENICI.** Mr. President, I am pleased to join Senator DECONCINI as an original cosponsor of the Omnibus Anti-Drug Abuse Act of 1988.

We must acknowledge that the drug peddlers of this Nation and the world have declared war on the youth of America. The human cost of the plague of drugs is enormous in lost human potential. Drug abuse is a scourge and disgrace to our Nation.

We must fight back. We have to fight the war against drugs on all fronts: On the border, on the high seas, in the air, in our schools, in our neighborhoods.

The drug problem in American continues. I cannot stress the gravity of this matter enough. Drugs are destroying the minds and killing the people that use them. The number of murders and crimes related to drug trafficking continues to escalate.

I heard an alarming statistic from the Commissioner of the Customs Service at a hearing in my State this past summer. He did a simple calculation just based on the number of individuals who died consuming drugs versus the amount of cocaine consumed in this country. It shows that for every 150 pounds of cocaine consumed, one American dies. This does not even include the deaths involved in the trade—just the deaths based on the consumption of this one drug, cocaine. We are paying a high price in this country: The lives of our people.

As we fight this war against drugs, the nefarious suppliers in other countries are becoming increasingly cagey in subverting our efforts. We must beat them at their own game. In order to win this war, we must bring all the resources we have to bear on this problem.

Two years ago, many of us in the Senate banded together to provide an effective arsenal of weapons to fight this war against the drug merchants. Our efforts have yielded results. We are doing a better job—seizures are up, but production is up, too. We are only keeping pace with the drug producers and traffickers.

We have launched a war and a crusade, but we are just holding our own.

More needs to do done. We need to attack drug abuse and drug trafficking on every front. The Anti-Drug Abuse Act of 1986 started the momentum and now we need to continue it.

This is a war we cannot afford to lose, for this is a war over the minds and bodies of an entire generation of our young people.

The Omnibus Anti-Drug Abuse Act contains new approaches to address both the supply and demand sides of the narcotics problem.

On the supply side of the problem, this bill provides grants for State and local narcotics control programs, construction of new jails, and funds for an international eradication program for drug-producing countries.

On the demand side, the bill addresses the problem by providing funds for treatment programs and facilities.

I am really distressed to hear that people literally have to get on a waiting list to get into drug treatment programs. One of the strengths of this bill is the help it will provide to State and local governments to address the treatment side of the problem.

The price of our effort will be high, but the stakes are high. But we must ask ourselves, can we afford to do less?

I think not. Therefore, I am supporting this bill and hope we can enact into law soon, for every day we waste, more young people are lost to drugs.●

Mr. HATFIELD. Mr. President, I am pleased to join many of my colleagues as an original cosponsor of the Omnibus Anti-Drug Abuse Act of 1988. The substantial number of Senators who have cosponsored this bill, Republicans and Democrats alike, demonstrates that the Senate recognizes that illicit drugs and drug abuse have become this decade's most severe domestic and international social problem. During the past 8 years, the sheer magnitude of this crisis has become so great that no one can escape its consequences. Every aspect of our world is affected by illegal drugs, from the conduct of foreign relations to the safety of the streets in Portland, OR.

As the General Accounting Office recently reported, illegal drugs are costing the Nation tens of billions of dollars a year in lost wages, law enforcement expenses and treatment. Incapable of calculation are the enormous costs to our citizens and communities created by family strife, pain, suicide, violence, and suffering caused by narcotics and drug abuse.

Mr. President, we are all too familiar with these alarming national statistics. Not as readily known, however, is the fact that drug trade and drug abuse are no longer "big city" problems. Cities such as Bend, Salem, Medford, and Portland, OR, have joined the ranks of New York, Washington, DC. Miami, Chicago, and Los Angeles as communities with serious drug problems.

In my home State of Oregon, the Interstate-5 corridor, the major West Coast interstate connecting Canada, Washington, Oregon, California, and Mexico, has become a major pipeline for the transportation of illicit drugs. Oregon is now thought to be the Nation's leading manufacturer of methamphetamine and the second largest producer of marijuana. My State's greatest asset—its attractiveness as a place to live and raise a family—is in danger of being tarnished unless we get the drug problem under control. Oregon has developed a dynamic partnership between the Federal and State government in an effort to revitalize the local economy. That will be time and money down the drain if we fail to eradicate this cancer of drug abuse and drug trafficking from our midst.

This bill will assist States like Oregon that supply drugs to other parts of the country in shattering the myth that Latin America is the exclusive origin of our drug problems. Drug interdiction at the source means drug interdiction in Latin America, but it also means drug interdiction in Oregon and other prime drug manufacturing targets in the United States.

The effort being launched today by the introduction of this bill takes a comprehensive approach on an international, national, and local level by addressing both the supply and demand sides of the drug problem. The bill also provides incentives for increased cooperation between local, State, and Federal agencies in the war against drugs. Addressed in the bill are such things as drug enforcement and personnel enhancement, international narcotics control and assistance to foreign countries, drug interdiction improvement, demand reduction through treatment and rehabilitation, research and development, and enforcement training.

A bill of this scope and size inevitably has provisions that are controversial. The total expense of this package in an age of budget deficits and provisions dealing with new prison construction, for example, are troubling to me. No one expects the Congress to adopt this bill in its entirety. As we proceed, however, we can make adjustments and amendments to the bill which will make it even better. Introduction of this legislation marks the beginning of a congressional effort to develop an effective national policy to combat this epidemic. I will be working with the other sponsors of the bill and with members of the Appropriations Committee to accomplish this goal.

● Mr. SARBANES. Mr. President, I am pleased to join as an original cosponsor of legislation being introduced today, the Omnibus Anti-Drug Abuse Act of 1988. The legislation is a broad comprehensive measure that seeks to address the very serious problem of drug abuse and drug trafficking that threatens so many of our communities and our citizens. In fact, it is a problem that is so pervasive that it threatens the very fabric of our society.

This legislation is a much needed continuation of the Anti-Drug Abuse Act of 1986, which I supported and which passed the Senate by an overwhelming margin in the 99th Congress. It continues the fight against drug abuse and the harmful effect that drug trafficking has on our country. The bill attempts, in a comprehensive way, to address both the demand and supply side of the problem, and to significantly reduce both. It includes provisions to enable us to fight the drug menace at the local, State, and Federal level, and at our borders.

I am pleased to see that a major emphasis is on providing resources to our local and State law enforcement agencies to combat the problem where it is really felt—in our neighborhoods and communities. In fact, just after the administration's budget for fiscal year 1989 was presented to Congress, the the Governor of Maryland and the Mayor of Baltimore alerted me to their deep concerns that no funds were included in the President's budget for antidrug law enforcement or for general law enforcement activities at the local and State level. The State of Maryland estimates that one out of five inmates enters the Maryland Division of Corrections on a drug-related conviction. In addition, an estimated 50 percent of the inmates in our State have some kind of drug or alcohol related problem. The bill being introduced today provides a block grant to State and local governments for which they must outline how they will combat the drug problem using law enforcement, education, and demand reduction.

There are also several major provisions in the legislation aimed at combating the flow of drugs into this country. First, the bill includes important initiatives to encourage drug source countries, especially in Latin America, to eradicate their illicit drug crops over a 3-year period. Second, there is a significant enhancement of Federal drug enforcement personnel and operations money for the Drug Enforcement Administration, Customs Service, Border Patrol, and the Coast Guard. These agencies are absolutely vital in terms of drug interdiction. I think it is particularly significant that funds and personnel are being recommended for the Coast Guard when just a short time ago it was announced that drug interdiction efforts would be reduced by 55 percent and a number of important Coast Guard operations would be closed, including the Curtis Bay Coast Guard Yard in Baltimore.

The Omnibus Anti-Drug Abuse Act of 1988 also includes much needed funds for drug and alcohol abuse treatment and rehabilitation, education for our schools and communities, and training for antidrug enforcement personnel. Mr. President, this is a comprehensive bill that merits thorough and expeditious consideration by the Senate. It is a serious and significant effort to address the drug problems in our country.●

By Mr. D'Amato (for himself, Mr. DeConcini, Mr. Stevens, Mr. Dole, Mr. Grassley, Mr. Trible, Mr. Thurmond, Mr. McConnell, Mr. Nickles, Mr. Symms, Mr. Karnes, Mr. Helms, Mr. Hatch, Mr. Graham, Mr. Hecht, and Mr. Pressler):

S. 2206. A bill to amend the Controlled Substances Act to provide for the imposition of the death penalty for the intentional killing of a law enforcement officer and for certain continuing criminal enterprise drug offenses; to the Committee on the Judiciary.

IMPOSITION OF DEATH PENALTY FOR KILLING OF LAW ENFORCEMENT OFFICERS AND CERTAIN CONTINUING CRIMINAL ENTERPRISE DRUG OFFENSES

Mr. D'AMATO. Mr. President, I commend my colleague from Arizona, Senator DeConcini, for his untiring efforts to bring to this point what I consider to be this Nation's most important undertaking. That is, to see to it that we pass legislation comprehensive in nature and to fund that legislation to undertake a real war against drugs. To date, we have heard many proclaim that they want to take on this crusade. There simply has not been enough action. There has been great rhetoric, particularly before political campaigns, but little in the way of action. We have heard a great deal of concern about turf, about jurisdiction, about who will get to do what. However, we have heard little as it relates to what is taking place on our streets, in our neighborhoods and even less as to the resulting loss of domestic tranquility.

Mr. President, one need simply look at Panama today to see this as an example of what the narcotics trade can and has done. Narco-militarism, which is spreading in Latin America, is a far greater threat, in my view, to our Nation's stability and the stability of this hemisphere than all of the Sandinistas. But I am concerned as it relates to that issue as well.

This bill, Mr. President, provides for capital punishment in two cases. First, for the drug kingpin who intentionally murders or orders a murder as part of a continuing criminal drug enterprise. Second, for the intentional killing of a policeman or other Federal, State, or local law enforcement officer as part of a continuing criminal drug enterprise.

We have just seen the most incredible circumstance take place; one that no one ever would have believed. We have seen the intentional killing of a 22-year-old law enforcement officer, New York Police Officer Edward Byrne, simply because the drug organization wanted to demonstrate that they could and would kill a police offiport. He was going from home to home in Moscow staying with friends and he understandably feared for his safety and his life.

I talk about him today in the hope that the authorities in the Soviet Union who speak of glasnost and Perestroika and human rights will hear what I say, that they will start to recognize the rights to religious freedom of those in the Soviet Union, Jews such as Vladimir Karlin, Christians and others. If they do, glasnost will have some meaning, and if they do, Vladimir Karlin will be able to practice his religion without fearing for his life.

THE MARINE RESEARCH ACT OF 1988

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Maine [Mr. Brennan] is recognized for 5 minutes.

Mr. BRENNAN. Mr. Speaker, today I am introducing legislation that focuses on an area of growing concern—the quality of our marine environment.

The Marine Research Act of 1988 identifies eleven national marine regions and establishes corresponding regional research centers. These research centers will be composed of marine research institutions working in each region including State agencies, universities, and private research laboratories. The centers' purpose will be to plan, to coordinate, and to support marine research at the regional level.

I am pleased to be joined by six of my colleagues in sponsoring this important legislation, including Representatives Schneider, Pickett, Hughes, Howard, Roe, and Scheuer.

This legislation is similar to S. 2068, which was developed and introduced in the other body by Senator George Mitchell, nationally known for his leadership in environmental issues. Senator Mitchell was joined by several members of both parties in introducing the Marine Research Act.

Our estuaries, great lakes, and coastal waters hold tremendous environmental and commercial value. The Nation's commercial fisheries, for example, produced an estimated 6 billion pounds of fish and shellfish in 1986, with a dockside value of over $2.8 billion.

The past year has provided a number of public warnings that our marine environment deserves closer attention. Last summer we saw media coverage of washups of dead dolphins, raw sewage, and garbage on Mid-Atlantic shores. there were also reports of "dead zones"—massive fish kills caused by oxygen depletion in Long Island Sound and at the mouth of the Mississippi.

Warnings have also come in recent research findings. There has been some concern in my home State of Maine over findings by the National Oceanic and Atmospheric Administration's National Status and Trends Program. Researchers expected a site in Casco Bay, in southern Maine, to be a pristine example of the Maine coast. Although the site was generally clean, researchers found surprisingly high levels of pollutants. Unexpectedly high levels of pollutants were also found at other coastal sites around the Nation in these studies.

The Office of Technology Assessment issued a report last year that concluded that health of estuaries and coastal waters is declining and predicted more degradation if action is not taken.

We must protect this valuable area of our environment. The Marine Research Act lays important groundwork for further action by offering a detailed and comprehensive regional assessment of marine environmental quality. It enhances regional marine research efforts by establishing a planning and coordination process for participating institutions and by providing these institutions with substained funding.

The centers are to develop 3-year plans that outline research priorities. They will also submit general reports to the Governors and to the public. Groups such as the fishing industry and environmental organizations will play a role in the development of these plans, through a research advisory group. The Federal Government will provide limited oversight through a board composed of representatives of appropriate Federal agencies.

The bill authorizes $32.5 million per year for 5 years—$3 million for each region, except the tropical region, which will receive $1.5 million, and $1 million for the Federal board. Most of the funds authorized, at least $26 million, will be directed to research institutions participating in the centers.

I hope my colleagues will join me in supporting this timely and essential measure to ensure the health of our marine resources.

OMNIBUS ANTI-DRUG ABUSE ACT OF 1988

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. English] is recognized for 5 minutes.

Mr. ENGLISH. Mr. Speaker, today I am introducing the Omnibus Anti-Drug Abuse Act of 1988. The purpose of the act is to extend, expand, and fine tune the Anti-Drug Abuse Act of 1986 passed by Congress 2 years ago. That law marked an important first step in developing a long-term strategy to fight the war on drugs.

However, it is clear that more is needed. This new bill addresses areas including demand reduction, international programs, and law enforcement. It provides more grant moneys for States and localities, more personnel and assets for the agencies, and more incentives for foreign source and transshipment countries.

One of the bill's primary purposes is to build accountability into our efforts in the war on drugs. In the past, we have not had mechanisms in place to determine which programs work and which don't. This bill allows us to identify successful programs in both law enforcement and demand reduction, and to apply those programs nationwide.

In the proposed grant programs, which include law enforcement, education, treatment, and rehabilitation programs, the bill encourages both State and local governments to develop their own master plans to address their most urgent drug abuse problems.

The bill also builds accountability into the international programs including those officials of source and transshipment countries who say they want our help, but do not live up to that commitment. No longer will those foreign officials be able to complain that the United States is not giving them the help they need to fight narcotics trafficking. The bill makes those resources available, but only to those countries that make a serious and verifiable effort.

Finally, we are demanding accountability from our own Federal law enforcement officials. Too often we have heard complaints about turf wars, disputes, and an unwillingness to cooperate among interdiction agencies. Yet no one in an official capacity, except for the President, has the direct authority over these agencies to ensure they work together, and not against each other, in the war on drugs. In a report by the Government Operations Committee last year, we found that the National Drug Policy Board was not giving the direction and leadership needed to resolve these agency disputes.

This bill would address the problem in two important ways. First, it places both the Coast Guard and the Customs Service under the same Office of Enforcement and Border Affairs within the Department of Treasury. The single official who runs that office will have direct authority, and, more important, accountability, for making sure that the Coast Guard and Customs Service work together in their interdiction efforts.

Second, the bill creates an interagency task force of agents from the U.S. Customs Service, the Drug Enforcement Administration, and the U.S. Border Patrol for the Southwest border. And it gives direct line authority to the commander of the task force over all of the assigned agents. In my examination of law enforcement efforts on the Southwest border, I have repeatedly found that problems stem from the fact that no one has that type of authority. This provision would establish that kind of authority, and hold that individual accountable for the success or failure of interdiction efforts on the Southwest border.

A couple of other elements in the bill need to be mentioned. First, we have included programs to better train law enforcement officials in all aspects of antidrug abuse programs, including prison rehabilitation, foreign language for our agents, and training for foreign drug enforcement agents in other countries as well.

And second, we have included some unique programs for research and technology by designating a number of existing laboratories of the Departments of Defense, Justice, and Energy as National Technology Development Centers. That will give those scientists and researchers the mandate they need to develop new technologies for Federal law enforcement applications.

This proposal builds on the foundation which Congress laid 2 years ago for a sound and long-term antidrug abuse strategy. It addresses issues of vital concern in all areas of drug abuse—from treatment, rehabilitation, and education, to law enforcement, prosecution, and incarceration. It addresses the problem of foreign source and trafficking countries. And finally, it addresses the future, by encouraging new technologies for law enforcement, and innovative programs for those needing treatment.

I look forward to working with other Members of the House on this vital legislation. I urge my colleagues to support the Omnibus Antidrug Abuse Act of 1988 so that this nation can finally claim victory in the war on drugs.

BIELARUSIAN INDEPENDENCE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on March 25, 1918, 70 years ago, the Bielarusian people proudly proclaimed their independence and established their own government. We in the Congress, having been elected by a free people, have an obligation to take this opportunity to focus the world's attention on this historic day in the struggle of man to be free, and to remind the world about the oppressive conditions under which the Bielarusian people are now forced to live.

The Bielarusian Coordinating Committee of Chicago, IL, an organization deeply committed to the restoration of liberty and freedom in Bielarus, is again sponsoring a banquet and program to commemorate this anniversary. This year's program will take place on Sunday, March 27, from 12 noon to 5 p.m. at the Regency Inn Banquet Halls, 5319 West Diversey Avenue in Chicago. This program also will commemorate the Millennium of Christianity in Bielarus, and it is an important time to reflect that the Bielarusian people in their Communist-dominated homeland are not free to practice their own religion, or to celebrate these two significant events in their history. I would like to take this opportunity to extend my greetings to all those participating in this important commemoration, and to join with them in renewing our commitment to a free Bielarus, and in condemning the many human rights violations against their fellow countrymen at the hands of the Communists.

In conjunction with this anniversary banquet, the Bielarusian Coordinating Committee is also sponsoring a cultural and folk arts and crafts exhibit in the Richard J. Daley Civic Center which will run from March 21 through April 1. This exhibit shares with the entire Chicagoland community the rich and proud cultural heritage of the Bielarusian people.

Sadly, the Communists have been brutal in their treatment of the Bielarus people. Bielarus has been almost completely cutoff from the rest of the world by the heavy presence of the Soviets, who have been systematic in their attempts to assimilate the Bielarusian people, and to wipe out their religion, their culture, their language, and their heritage. Although the Communists have been unrelenting, so, too, has the resolve of the courageous men and women of Bielarus to continue to stand up to the Soviets and oppose their efforts.

Mr. Speaker, I am honored to join with Bielarusian-Americans in the 11th Congressional District of Illinois which I am honored to represent, and Americans of Bielarusian descent throughout this Nation, in commemorating this 70th anniversary of Bielarusian Independence Day. I share with them in their hopes and prayers that one day the courageous people of Bielarus can once again enjoy the blessings of freedom and national self-determination in a free homeland.

NATIONAL HOME CARE WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, I rise today to introduce a resolution to designate the week of November 27 to December 3, 1988, as National Home Care Week. I am very pleased to be joined by my colleagues, Mr. PEPPER, chairman of the House Aging Committee's Subcommittee on Health and Long-Term Care, Mr. RINALDO, ranking member of the Aging Committee, in sponsoring this resolution. Congress has approved similar resolutions for the past 6 years to recognize the valuable services of home care programs and personnel, and I look forward to congressional passage once again.

As you all know, thousands of home care agencies around the Nation have responded to the need to offer effective alternatives to our health care delivery system. By providing skilled medical assistance to those who can be properly treated outside the hospital or nursing home setting, these agencies recognize the demand for new health care options, and conserve tax dollars currently expended on needless placement in these institutions. This valuable concept of care provides a serviceable answer to the needs of our health care system, and offers a comforting, dignified environment for patients. Alternatives to our health care programs must be offered, and home care agencies have proven very effective in answering that need.

Mr. Speaker, as you know, one of the most critical issues to face our Nation today centers around our health care system. While the growing elderly population, expected to total well over 30 million by the year 2000, places greater demand on our current system, home care agencies have helped many of the elderly remain at home and in their communities. This creates an atmosphere of greater independence and dignity and promotes an easeful recovery. For this service, home care agencies and persons employed in the home care industry should he properly recognized and commended.

As we reevaluate and reform our Nation's health care programs, it is essential for us to take full notice of the benefits of home care and to act to encourage its use. I thank my colleagues for their past support in cosponsoring this important resolution, and look forward to the opportunity to again recognize this effective and humane health care alternative the week of November 27, 1988. For the convenience of my colleagues, the text of the resolution follows:

H.J. Res. —

Joint resolution designating the week beginning November 27, 1988, as "National Home Care Week"

Whereas organized home care services to the elderly and disabled have existed in the United States since the last quarter of the 18th century;

Whereas home care is an effective and economical alternative to unnecessary institutionalization;

Whereas caring for the ill and disabled in their homes places emphasis on the dignity and independence of the individual receiving these services;

Whereas since the enactment of the medicare home care program, which provides coverage for skilled nursing services, physical therapy, speech therapy, social services, occupational therapy, and home health aide services, the number of home care agencies in the United States providing these services has increased from fewer than 500 to more than 3,000; and

Whereas many private and charitable organizations provide these and similar services to millions of individuals each year preventing, postponing, and limiting the need for them to become institutionalized to receive these services: Now, therfore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning November 27, 1988, is designated as "National Home Care Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

[Mrs. BENTLEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

THE CITIZENS' TRAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon [Mr. AUCOIN] is recognized for 60 minutes.

Mr. AUCOIN. Mr. Speaker, I take this time tonight to call to the attention of my colleagues and to the country an extraordinary citizen event and to spread across the pages of the CONGRESSIONAL RECORD a description of what that event means and what it stands for, and I am talking about something called the Citizens Train. This is an impressive effort involving over 300 people from the west coast, most of whom are Oregonians, many of whom are from my congressional district and that of the district of my colleague, the gentleman from Oregon [Mr. WYDEN], who have traveled by train to come to Washington, DC, men, women, and children from all backgrounds, all ages, to participate in this very public debate on democratic principles, democratic values, and priorities in a society that we like to think of as being just.

Today in Washington, DC, on Capitol Hill we have about 300 of those people who have made this trip and their purpose in taking this trip in

100TH CONGRESS
2D SESSION

H. R. 4230

To enact the Omnibus Antidrug Abuse Act of 1988, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 1988

Mr. ENGLISH (for himself, Mr. ROBINSON, Mr. WYDEN, Mr. DIOGUARDI, Mr. GIBBONS, Mr. FASCELL, Mr. GILMAN, Mr. NELSON of Florida, and Mr. PEPPER) introduced the following bill; which was referred jointly to the Committees on Government Operations, the Judiciary, Ways and Means, Foreign Affairs, Energy and Commerce, Education and Labor, Armed Services, Merchant Marine and Fisheries, Science, Space, and Technology, Permanent Select Committee on Intelligence, and Post Office and Civil Service

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A BILL

To enact the Omnibus Antidrug Abuse Act of 1988, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Antidrug Abuse Act of 1988".

SEC. 2. ORGANIZATION OF THE ACT.

This Act is organized as follows:

"(2) Biannual report.—Not later than 6 months after the date of enactment of this Act, and every 6 months thereafter, the Secretary shall also prepare and submit to the President, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report that shall include a description and analysis of data collected pursuant to this section.

"(d) Authorization of Appropriations.—To carry out the purposes of this section there are authorized to be appropriated $1,200,000 for fiscal year 1989; $2,000,000 for fiscal year 1990; and $3,000,000 for fiscal year 1991. Funds appropriated for fiscal year 1989 shall remain available 3 years beyond the date of the last appropriation, and until at least 1991.".●

By Ms. MIKULSKI (for herself and Mr. Sarbanes):

S. 2230. A bill to establish the Office of Enforcement and Border Affairs within the Department of the Treasury; pursuant to the order of August 4, 1977, referred jointly to the Committee on Governmental Affairs and the Committee on the Budget.

COAST GUARD AND NATIONAL BORDER COORDINATION REVITALIZATION ACT

● Ms. MIKULSKI. Mr. President, I am pleased to announce that my senior colleague, Senator Sarbanes, and I are introducing legislation to revitalize our Coast Guard by transferring it from the Department of Transportation to the Department of Treasury.

This bill, the Coast Guard and National Border Coordination Revitalization Act, puts the Coast Guard where it belongs, in Treasury with Customs and other drug-fighting agencies. In recent years, the Office of Management and Budget has proposed sharp reductions in function 400, Transportation's budget function. They have done so each and every time because of their strong opposition to Federal funding for mass transit and Amtrak. And every year, Congress has been forced to try and do more with the activities in that function with less resources proposed in the President's budget.

Last year this complication resulted in a $100 million shortfall for the Coast Guard's operations. That funding gap has forced the Coast Guard to reduce its presence at numerous installations around the country. In Maryland, they have proposed a 5-year phaseout of the Coast Guard Yard at Curtis Bay. This would mean the loss of 700 jobs and would virtually end Curtis Bay's 89-year history of "service to the fleet."

In this process, I believe that the Appropriations Committees have been unfairly singled out as responsible for this shortfall. In reality, the real culprit has been an administration that has pitted aviation funds and the Coast Guard against public transportation. During interdiction and public safety should not be forced to compete with grant programs essential to the successful operation of State and local governments. The Congress has rejected this approach in each of the last 7 years and in all likelihood will do so again this year.

The legislation Senator Sarbanes and I are introducing would eliminate this kind of finger pointing at the Transportation Appropriations Subcommittee by guaranteeing that the Coast Guard is placed in the budget function where it best belongs, 750—administration of justice.

By moving the Coast Guard out of Transportation, the Coast Guard will not be forced to compete for resources with subways and Amtrak. There's no relation between mass transit and the Coast Guard, and the Congress should not be forced into an annual showdown over the two because the administration opposes any Federal funds for public transportation.

The framework which this legislation sets out will also guarantee that the Federal Government has a more coordinated approach to fighting illegal drugs from entering into this country. The creation of an Office of Enforcement and Border Affairs within the Department of the Treasury, headed by an Under Secretary who reports directly to the Secretary, will ensure a one-stop shop that guarantees the best possible effort to reverse the growing crisis of drug abuse in America.

I am pleased that this bill was included last week as title V in S. 2205, the Omnibus Antidrug Abuse Act. It is my hope that we can enact this important Government reorganization through S. 2205 or some other vehicle. Only then can we begin to reverse the recent budgetary trend which has shortchanged the Coast Guard in its fight as one of the agencies who have become the cops for the new economy in the war against drugs.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

Summary of Major Provisions, Coast Guard and National Border Coordination Revitalization Act of 1988

OFFICE OF ENFORCEMENT AND BORDER AFFAIRS

Establishes Office of Enforcement & Border Affairs within Dept. of Treasury, headed by the Undersecretary for Enforcement and Border Affairs.

Under this office, will be an office of Border Management, responsible for all non-narcotics interdiction activities.

Under this office, will also be office of Narcotics Interdiction, responsible for all narcotics interdiction activities.

AGENCY COMPOSITION

Agencies within Office of Enforcement & Border Affairs:

Coast Guard [transferred from Dept. of Transportation].

Customs Service.

Bureau of Alcohol, Tobacco & Firearms.

Secret Service.

Immigration & Naturalization Service [transferred from Dept. of Justice].

Federal Law Enforcement Training Center.

TRANSFER OF COAST GUARD BUDGET FUNCTION

Transfer the Budget Function for the Coast Guard from Function 400, Transportation, to Function 750, Administration of Justice, beginning with FY 1989.

COAST GUARD RESPONSIBILITIES IN TIME OF MILITARY CONFLICT

Makes no change in Coast Guard's transfer to the Dept. of Navy in time of military conflict.

TRANSITIONAL PROVISIONS

Includes necessary transitional provisions to protect current personnel within Coast Guard and INS to prevent them from being adversely affected upon the transfer of their agencies to the Treasury Dept.●

● Mr. SARBANES. Mr. President, I am pleased to join my colleague, Senator Mikulski, in sponsoring the Coast Guard and National Border Coordination Revitalization Act of 1988. The purpose of this legislation is twofold: to provide greater stability in the Coast Guard's funding and increased coordination in our Nation's war against drugs.

The adoption of the budget for the Coast Guard has been the subject of serious controversy for the past few years. This has been precipitated, in part, by the agency's increased responsibilities in maritime drug interdiction and other activities at the same time that the Department of Transportation's resources, under which the Coast Guard operates, have come under increased pressure by the Federal deficit. While the Congress has sought to augment the Coast Guard's budget with funds from the Department of Defense, these funds have also been squeezed. Last year, in order to achieve the level of deficit reduction called for in the budget summit agreement, deep cuts were made in Department of Transportation programs including approximately $100 million from the Coast Guard's operating budget. In January of this year, the Coast Guard announced that, as a result of this $100 million shortfall in the agency's funding for fiscal 1988, drug interdiction efforts would be reduced by 55 percent and a number of important Coast Guard operations—including the shipbuilding and repair activities at the Curtis Bay Coast Guard Yard in Baltimore—would be phased out.

In order to address this problem and to ensure that the Coast Guard receives the resources necessary to perform its missions and continue vital operations like the Curtis Bay Yard, Senator Mikulski and I are introducing legislation to move the Coast Guard from the Department of Transportation to the Department of Treasury. This is a move that makes sense on several fronts. First of all, it will place the agency with the Customs Service and other bureaus involved in the attack on the national drug trafficking problem and help ensure a coordinated anti-drug effort. This provision has also been included in the Omnibus Anti-Drug Abuse Act of 1988, which was introduced last week and is a very significant effort to combat the serious drug problem in our Nation.

Second, moving the Coast Guard to the Treasury Department, where it was housed for 177 years, will better enable us to provide a long-term approach for dealing with shortfalls in the Coast Guard's operating budget. It makes sense to remove the Coast Guard from the transportation function where it had to annually compete for resources from transportation specific programs. A major part of the Coast Guard's function is not transportation-specific, as it is with the other programs such as the Federal Aviation Administration, mass transit and other important programs in the Transportation budget. Placing it under the Treasury Department will enable us to more adequately address the needs of the Coast Guard, and our country, with regards to drug interdiction, marine and boating safety, and enforcement of laws and treaties.

I urge my colleagues to join me in supporting this measure to restore sound budget policy and strengthen the Coast Guard. ●

100TH CONGRESS
2D SESSION

S. 2230

To establish the Office of Enforcement and Border Affairs within the Department of the Treasury.

IN THE SENATE OF THE UNITED STATES

MARCH 29 (legislative day, MARCH 21), 1988

Ms. MIKULSKI (for herself and Mr. SARBANES) introduced the following bill; which was read twice and referred jointly pursuant to the order of August 4, 1977, to the Committees on the Budget and Governmental Affairs with instructions that if one committee reports, the other committee has thirty days of continuous session to report or be discharged

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A BILL

To establish the Office of Enforcement and Border Affairs within the Department of the Treasury.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard and National Border Coordination Revitalization Act of 1988".

SEC. 2. DEFINITIONS.

As used in this Act—

(1) the term "Office" means the Office of Enforcement and Border Affairs of the Department of the Treasury established by section 3 of this Act,

(2) the term "Commandant" means the Commandant of the Coast Guard;

(3) the term "Secretary" means the Secretary of the Treasury,

(4) the term "Under Secretary" means the Under Secretary of the Treasury for Enforcement and Border Affairs appointed under section 4(a), and

(5) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

PART A—ESTABLISHMENT AND OFFICERS

SEC. 3. ESTABLISHMENT OF OFFICE.

There if established within the Department of the Treasury an office to be known as Office of Enforcement and Border Affairs, which shall consist of—

(1) the office in the Department of the Treasury known on the day before the date of the enactment of this Act as the Office of the Assistant Secretary of the Treasury for Enforcement;

(2) the Coast Guard, as transferred by section 8; and

(3) the Immigration and Naturalization Service, as transferred by section 15.

SEC. 4. UNDER SECRETARY FOR ENFORCEMENT AND BORDER AFFAIRS.

(a) In General.—The head of the Office of Enforcement and Border Affairs established by section 3 shall be the Under Secretary of the Treasury for Enforcement and Border Affairs, who shall—

(1) be appointed by the President, by and with the advice and consent of the Senate; and

(2) report directly to the Secretary of the Treasury.

(b) Compensation.—The Under Secretary shall be paid at the rate of basic pay payable for level III of the Executive Schedule.

SEC. 5. OFFICE OF BORDER MANAGEMENT AFFAIRS.

(a) In General.—There shall be within the Office of Enforcement and Border Affairs an office to be known as the Office of Border Management Affairs.

(b) Assistant Secretary.—

(1) The head of the Office of Border Management Affairs shall be the Assistant Secretary of the Treasury for Border Management Affairs, who shall—

(A) be appointed by the President, by and with the advice and consent of the Senate; and

(B) report directly and be responsible to the Under Secretary.

(2) The Assistant Secretary of the Treasury for Border Management Affairs shall be responsible for overseeing all activities of agencies and personnel under the jurisdiction of the Office of Enforcement and Border Affairs, other than activities relating directly to narcotics interdiction.

(3) The Assistant Secretary of the Treasury for Border Management Affairs shall be paid at the rate of basic pay payable for level IV of the Executive Schedule.

SEC. 6. OFFICE OF NARCOTICS INTERDICTION.

(a) IN GENERAL.—There shall be within the Office of Enforcement and Border Affairs an office to be known as the Office of Narcotics Interdiction.

(b) ASSISTANT SECRETARY.—

(1) The head of the Office of Narcotics Interdiction shall be the Assistant Secretary of the Treasury for Narcotics Interdiction, who shall—

(A) be appointed by the President, by and with the advice and consent of the Senate; and

(B) report directly and be responsible to the Under Secretary.

(2) The Assistant Secretary of the Treasury for Narcotics Interdiction shall be responsible for overseeing all narcotics interdiction activities of agencies and personnel under the jurisdiction of the Office of Enforcement and Border Affairs.

(3) The Assistant Secretary of the Treasury for Narcotics Interdiction shall be paid at the rate of basic pay payable for level IV of the Executive Schedule.

SEC. 7. CONFORMING AMENDMENTS.

(a) TITLE 31, UNITED STATES CODE.—Section 301(e) of title 31, United States Code, is amended by striking "7" the first place that number appears and inserting in lieu thereof "9".

(b) TITLE 5, UNITED STATES CODE.—Section 5314 of title 5, United States Code, is amended by inserting after "Under Secretary of the Treasury (or Counselor)." the following:

"Under Secretary of the Treasury for Enforcement and Border Affairs.".

(c) TITLE 5, UNITED STATES CODE.—Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of the Treasury (7)" and inserting in lieu thereof the following:

"Assistant Secretaries of the Treasury (9).".

PART B—TRANSFER OF COAST GUARD TO OFFICE OF ENFORCEMENT AND BORDER AFFAIRS

SEC. 8. TRANSFER OF COAST GUARD.

(a) IN GENERAL.—With respect to operation of the Coast Guard other than as a service in the Navy, the Coast Guard is transferred from the Department of Transportation to the Office of Enforcement and Border Affairs of the Department of the Treasury.

(b) STATUS WITH RESPECT TO DEPARTMENT OF DEFENSE UNAFFECTED.—Nothing in this Act shall be considered to affect—

(1) the operation of the Coast Guard as a service in the Navy; or

(2) the respective duties, with respect to the Coast Guard, of the Secretary of Defense and the Secretary of the Navy.

SEC. 9. TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.

(a) IN GENERAL.—The civilian personnel of the Department of Transportation employed in connection with the Coast Guard, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Department of Transportation in connection with the Coast Guard and the functions and offices transferred by this part, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Office for appropriate allocation by the Secretary. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) EFFECT ON PERSONNEL.—

(1) The transfer under this part of fulltime personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer to the Office.

(2) Any person who, on the day preceding the effective date of this part, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Office to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(c) INCIDENTAL TRANSFERS.—

(1) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, shall make such determinations as may be necessary with regard to the functions, offices, or portions thereof transferred by this part, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, or portions thereof, as may be necessary to carry out this part.

(2) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget may, at such time as the Director of the Office of Management and Budget provides, make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions and offices transferred by this part.

SEC. 10. SAVINGS PROVISIONS.

(a) IN GENERAL.—All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, the Commandant, any Federal entity or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this part, and

(2) which are in effect at the time this part takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Commandant, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) NOT AFFECTED.—

(1) This part shall not affect any proceeding, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this part before any Federal entity and applications, to the extent that they relate to functions transferred under this part, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this part had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the

Commandant, the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this part had not been enacted.

(2) The Secretary may promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Office.

(c) ABATEMENT.—No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any department or agency, functions which are transferred by this part, shall abate by reason of the enactment of this part. No cause of action by or against any department or agency, functions of which are transferred by this part, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this part.

(d) CONTINUANCE.—

(1) Except as provided in paragraph (2)—

(A) this part shall not affect suits commenced before the effective date of this part, and

(B) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this part had not been enacted.

(2) If, before the date on which this part takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this part any function of such department, agency, or officer is transferred, then such suit shall be continued with the Secretary or other appropriate official of the Office substituted or added as a party.

(e) JUDICIAL REVIEW.—Orders and actions of the Commandant and the Secretary in the exercise of functions transferred under this part shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions immediately preceding their transfer.

(f) STATUTORY REQUIREMENTS.—Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this part shall apply to the exercise of such function by the Commandant or the Secretary.

SEC. 11. REFERENCE.

With respect to any function transferred by this part and exercised on or after the effective date of this part, reference in any other Federal law to the Secretary of Transportation shall be deemed to refer to the Secretary of the Treasury.

SEC. 12. TRANSITION.

With the consent of the Secretary of Transportation, the Commandant and the Secretary may use the services of such officers, employees, and other personnel of the agencies or offices from which functions or offices have been transferred and fund appropriated to such functions or offices for such period of time as may reasonably be needed to facilitate the orderly implementation of this part.

SEC. 13. BUDGET FUNCTIONAL CATEGORY FOR COAST GUARD.

(a) PRESIDENT'S BUDGET.—For fiscal years beginning with the fiscal year 1990, the President shall, in accordance with section 1104(c) of title 31, United States Code, include the Coast Guard (including all accounts funding the operations and activities of the Coast Guard) within functional category 750 for purposes of the budget of the United States Government submitted by the President pursuant to section 1105 of title 31, United States Code.

(b) BUDGET RESOLUTION.—Any concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974 for fiscal years beginning with fiscal year 1989 shall use functional category 750 established by the President under subsection (a) in specifying the appropriate level of new budget authority and budget outlays for the Coast Guard.

SEC. 14. EFFECTIVE DATE.

This part shall take effect October 1, 1988.

PART C—TRANSFER OF IMMIGRATION AND NATURALIZATION SERVICE TO OFFICE OF ENFORCEMENT AND BORDER AFFAIRS

SEC. 15. TRANSFER OF IMMIGRATION AND NATURALIZATION SERVICE.

The Immigration and Naturalization Service is transferred to the Office of Enforcement and Border Affairs of the Department of the Treasury.

SEC. 16. TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.

(a) IN GENERAL.—The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices, or portions thereof transferred by this part, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Office for appropriate allocation by the Secretary. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) EFFECT ON PERSONNEL.—

(1) The transfer under this part of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer to the Office.

(2) Any person who, on the day preceding the effective date of this part, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Office to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(c) INCIDENTAL TRANSFERS.—

(1) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, shall make such determinations as may be necessary with regard to the functions, offices, or por-

tions thereof transferred by this part, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, or portions thereof, as may be necessary to carry out this part.

(2) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget may, at such time as the Director of the Office of Management and Budget provides, make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions and offices transferred by this part.

SEC. 17. SAVINGS PROVISIONS.

(a) In General.—All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, the Attorney General, any Federal entity or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this part, and

(2) which are in effect at the time this part takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) NOT AFFECTED.—

(1) This part shall not affect any proceeding, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this part before any department or agency and applications, to the extent that they relate to functions transferred under this part, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this part had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such

proceeding could have been discontinued or modified if this part had not been enacted.

(2) The Secretary may promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Office.

(c) ABATEMENT.—No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any department or agency, functions of which are transferred by this part, shall abate by reason of the enactment of this part. No cause of action by or against any department agency, functions of which are transferred by this part, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this part.

(d) CONTINUANCE.—

(1) Except as provided in paragraph (2)—

(A) this part shall not affect suits commenced before the effective date of this part, and

(B) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this part had not been enacted.

(2) If, before the date on which this part takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit,

and under this part any function of such department, agency, or officer is transferred, then such suit shall be continued with the Secretary or other appropriate official of the Office substituted or added as a party.

(e) JUDICIAL REVIEW.—Orders and actions of the Secretary in the exercise of functions transferred under this part shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions immediately preceding their transfer.

(f) STATUTORY REQUIREMENTS.—Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this part shall apply to the exercise of such function by the Secretary.

SEC. 18. REFERENCE.

With respect to any function transferred by this part and exercised on or after the effective date of this part, reference in any other Federal law to the Attorney General oı any other officer of the Department of Justice the functions of whom are so transferred shall be deemed to refer to the Secretary.

SEC. 19. TRANSITION.

With the consent of the Attorney General, the Secretary may use the services of such officers, employees, and other personnel of the Department of Justice from which functions or offices have been transferred and funds appropriated to such functions or offices for such period of time as may reasonably be needed to facilitate the orderly implementation of this part.

SEC. 20. EFFECTIVE DATE.

This part shall take effect October 1, 1988.

Meeting Public Demands:
Federal Services in the Year 2000

Project *2000*

Abstract

This report was prepared at the request of the OMB Director and Deputy Director for the President's Council on Management Improvement.

The report identifies the demographic, economic and social trends that will affect the federal government's ability to deliver services between now and the year 2000. The impact of these trends on five broad areas of federal activity (entitlement delivery, financial transactions, information collection and dissemination, postal service and border management) is considered. General recommendations are made to improve the quality of services provided to the citizen by federal programs in these areas.

This report was prepared by a staff selected from a variety of federal agencies. The views expressed in this report are solely those of the authors. No opinions, projections or recommendations contained in this document can be attributed to the Department of the Treasury, the Office of Management and Budget, or any other federal organization.

MEETING PUBLIC DEMANDS:

Federal Services in the Year 2000

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Foreword

As the size of the federal government has grown to control over one-quarter of the nation's gross national product its influence has spread to countless areas of everyday life. The American public frequently interacts with the government by receiving Social Security payments, sending mail, obtaining weather information and by participating in a multitude of similar transactions. The government needs to reemphasize its role as a direct provider of services.

The Project 2000 staff was assembled to recommend a long-term strategy for improving the quality of federal service delivery by understanding future trends and demands. The staff developed a view of the United States in the year 2000 in order to determine the services that will be most important to American citizens.

Five program areas were identified for analysis in this report because of the magnitude of their direct dealings with the public. The areas were entitlement delivery, financial transactions, information collection and dissemination, postal service, and border management. Citizens form fundamental impressions through these programs about the efficiency and effectiveness of their government.

In the future the demand for federal services will be affected by the growth of the population, the disproportionate growth of the number of people of retirement age, and the declining resources for federal discretionary spending. It is also anticipated that public expectations for quality and convenience when dealing with the government will continue to increase. These trends create a difficult task requiring strategic planning today so that government can better meet the challenges of the future. Responding to the changing demographic, technological and social characteristics of the future will require a redirection of federal management efforts to improve the quality of public services.

This study was undertaken as a step in preparing the federal government for the 21st century--a key element to fulfilling President Reagan's commitment to create a more productive, better managed government. Directed at broad areas of service delivery, the study recommends that federal managers focus agency attention on service provision, consolidate basic services, facilitate private sector intermediaries as service providers, and strengthen the government's ability to innovate. The guidance provided by this study is meant to be a framework for planned action by individual agencies to improve service delivery in the future.

John F. W. Rogers
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7. BORDER MANAGEMENT

Description

Introduction

Border management, the control of the international flow of people, merchandise and carriers, is an important instrument in U.S. foreign, economic and environmental policy. Eight federal agencies currently have responsibility for promoting a spectrum of domestic and international goals through some form of border control. Two agencies, the U.S. Customs Service (Customs) at the Department of the Treasury and the Immigration and Naturalization Service (INS) at the Department of Justice serve as the primary means of enforcing the nation's border management policies. Millions of travelers to and from the United States have become familiar with these agencies through direct interaction at nearly every port of entry. In addition, though less well known, the Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) and the State Department's Bureau of Consular Affairs (CA) are also significant administrators of border policies.

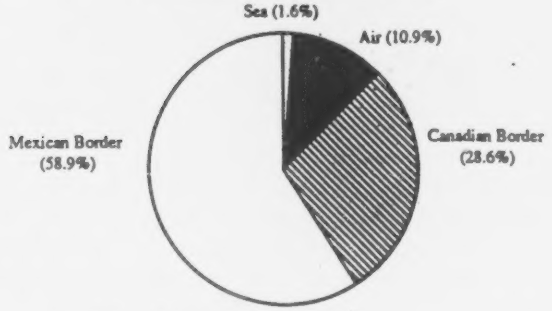
The missions of these agencies encompass a broad range of economic and social interests. The purpose of the U.S. Customs Service is to enforce the laws and regulations which govern international trade, primarily through the assessment and collection of duties, taxes and fees on imported merchandise. Often working alongside Customs is APHIS, responsible for keeping foreign pests and diseases from entering the United States. The primary goal of INS is to encourage legal immigration, while prohibiting illegal immigration. CA performs a related function of administering and enforcing the provisions of the Immigration and Nationality Act and other laws concerning the diplomatic and consular offices of the United States.

In this chapter, the operations of Customs, INS, APHIS and CA will be examined. These four agencies are most visible to the public through their border inspection and document processing activities. Although they also work extensively with commercial interests, the percentage of people reached through noncommercial activities is much greater. Each year, millions of U.S. citizens apply to CA for a U.S. passport and millions of international travelers pass through the inspection facilities of Customs, INS and APHIS as they enter the United States. In 1986, 179 million people crossed the Mexican-American border, 87 million crossed the Canadian-American border, 33 million people arrived in the United States by air and five million by sea.[1]

Since these activities are undertaken for the benefit of the general public and the direct benefits to individuals are greatly diffused, these activities have become viewed as an inconvenience and burden on the individual. The agencies are continually seeking to expedite inspection and application procedures while increasing compliance with the law. This challenge has become even more difficult in the face of recent budget and staffing restrictions. In view of the importance of border control to

FIGURE 7-1

PASSENGER PROCESSING
1986



SOURCE: Customs Performance Report, Fiscal Year 1986

national policy and its high visibility to U.S. and foreign travelers, the future priority of border management will undoubtedly be greater efficiency while maintaining or strengthening enforcement efforts.

The following discussion presents a more detailed description of the responsibilities and missions of the four agencies that manage the nation's border.

U.S. Customs Service

The Customs Organization Act of 1789 established the U.S. Customs Service to execute the government's constitutional authority to levy and collect taxes. The Act provided for the establishment of customs districts and ports of entry, the appointment of customs officers and a system for collecting duties.[2] Over the years, Customs' mission has expanded to include the enforcement of over 400 provisions of law on behalf of more than 40 government agencies.

The activity typically associated with Customs is passenger inspections under the Office of Inspection and Control, which comprises only about 14 percent of Customs' nearly $1 billion budget.[3] In 1986, 303.6 million international travelers were processed by Customs at airports, seaports and land borders.[4] Customs maintains the largest physical presence of all the agencies involved in border management, with 2,096 inspectional workers devoted to processing persons arriving in the United States in 1986, at nearly every port of entry, and directly interacts with a significant number of Americans and foreigners.[5]

Immigration and Naturalization Service

As authorized in the Immigration Acts of 1891, 1952 and 1965 and subsequent amendments, INS is responsible for four major areas: aliens entering the United States, aliens within the United States, naturalization and citizenship, and undocumented or illegal aliens. The administration of these areas falls into two major functions—enforcement and examination. Enforcement accounted for 62 percent of INS' $594 million budget in 1986.[6] This includes activities to prevent the illegal entry into the country, such as inspection of applicants for admission, patrol of the border and apprehension of those who enter illegally.[7]

As in other agencies, much of INS' operations are unfamiliar to the general public. Although many people are aware of some illegal alien investigations, the average citizen only comes into direct contact with inspection personnel. To monitor and control the flow of international travelers, INS maintains an inspection force of 1,580 and conducted 328 million inspections in 1986 at land, air and sea ports of entry.[8] Inspectors determine the admissibility of persons as they enter the United States. This entails examining the travel documents of citizens and foreigners, such as passports and visas, to determine authenticity and to ensure that the holder of the documents corresponds to his description.

Animal and Plant Health Inspection Service

The Animal and Plant Health Inspection Service was established to conduct regulatory and control programs to protect U.S. agriculture from foreign disease and pests. Under three major programs, APHIS oversees animal and plant health and quarantine, the humane treatment of animals, and the control and eradication of pests and diseases.

As part of the Plant Protection and Quarantine program, about 1,000 agricultural quarantine inspection officials are located at 85 ports of entry to control entry of federally restricted goods.[9] These items include most plants, plant products, animals, animal by-products and other materials which may harbor pests and diseases. APHIS personnel inspected 37 million international travelers, 576 thousand shipments of agricultural products and several thousand mailed packages in 1985.[10] Expenditures for the inspection service amounted to $55.8 million in 1985.[11] At ports of entry where agricultural inspectors are not present, Customs oversees compliance with the agricultural restrictions.

The Bureau of Consular Affairs

The Bureau of Consular Affairs' greatest interaction with the American public is the issuance of passports through the Passport Services Office. Before a person travels abroad they must have documentation of their citizenship to present to foreign authorities and to facilitate their reentry into the United States. U.S. citizens can apply to CA for passports in one of 13 passport field offices or at designated clerks of court and post offices.

Over 4.4 million passports were issued domestically by CA in 1986, and approximately 17 million people hold valid passports.[12] While CA's aim is to provide convenient service to people who wish to travel, CA must avoid issuing documents to those considered a security risk. Nearly 1,200 employees were involved in examining and processing passport applications in 1986.[13]

How Service is Provided

These four agencies (Customs, INS, CA, and APHIS) provide a frequent point-of-contact between the public and the Federal Government through border inspection and passport services. Annually, over 300 million people entering the United States are processed for varying lengths of time at ports of entry as a result of the agencies' enforcement of border management policies and laws. In addition, more than four million people apply for passports to facilitate their trips abroad.

As travelers enter the United States by air or by sea, they are met at the port of entry by Customs, Immigration and APHIS. Disembarking facilities are designed to channel arriving passengers directly to inspection facilities, where they must be cleared by inspectors before continuing. The first inspection area entered by passengers is usually under the jurisdiction of INS. Passengers present their documents, an INS inspector may ask a few questions and then, usually the passenger's documents are stamped. Waiting time at the inspection area depends on the number of inspectors, the number of inspection stations provided by the facility, the common carrier's passenger profile, and the physical limitations of the facility. Ships and planes carrying people from areas designated as high risk typically take longer to process.

Inspections of aliens, whether or not they are immigrants, often take longer than inspections of U.S. citizens. The inspectors must spend more time confirming the validity of documents and may subject the aliens to a secondary inspection. Furthermore, personal identification data on each nonresident alien is compared against the National Automated Immigration Lookout System (NAILS), a data base of aliens, alien residents, or citizens who have violated the law or who are under suspicion. These detailed alien inspections create lengthy delays for foreign tourists and have caused complaints, particularly from the airline industry.

At many of the largest airports, a program called Citizen's Bypass allows arriving U.S. citizens to avoid INS inspection by going directly to the Customs area. The INS role is assumed directly by Customs personnel. In this way, citizens avoid being delayed by foreigners who take longer to process. This program was instituted because of INS staff shortages and resulting delays found at major airports.

After clearing INS, passengers proceed to the Customs inspection facility. As travelers enter the United States, they are asked to declare items purchased abroad that may be subject to taxes or legal restrictions. Customs declaration forms are distributed on airplanes and ships to be presented to Customs inspectors upon arrival. At the inspection station, the declaration forms are surrendered to Customs personnel, who collect any necessary taxes and may inspect baggage to ensure that all taxable goods have been reported and also if there is any contraband. If warranted, an inspector may conduct a secondary, or more thorough, inspection of a traveler. For Customs, average passenger waiting time for 1988 and 1989 is expected to be no more than 45 minutes at air ports of entry and 30 minutes at sea ports, approximately the same as in 1986 and 1987.[14]

The U.S. Customs Service recently installed a "red/green" system, modeled after a similar European system, to help decrease processing time. The system provides two types of inspection stations: one marked with a red flag or light where passengers with dutiable or questionable declarable items are inspected, and a second type marked with green for persons within exemption limits and no questionable items. In Europe, travelers pass quickly through green stations, occasionally being stopped for questioning or baggage inspection. In the United States, every passenger at green stations is questioned by Customs. The questions asked are typically "where do you live?", "how long have you been out of the country?" or "do you have something with you that you are planning to leave in the U.S.?". Because of the large number of laws that Customs enforces in addition to import tariffs, inspectors inquire into numerous areas and questions vary from passenger to passenger.

At airports where facilities constrain the number of passengers that can be processed at one time, Customs employs "roving inspectors" when there is adequate staff. Passengers can be directly processed by these roving inspectors in the baggage area and avoid waiting in long lines at Customs stations. Roving inspectors are also able to identify passengers that fit certain passenger profiles. These profiles are based on physical descriptions and current smuggling trends developed by the agencies to identify persons who may be carrying narcotics or other prohibited products, and direct them to the appropriate secondary inspection area.

Passengers are processed by APHIS only if a secondary inspection concerning agricultural products is found necessary. This results if Customs finds prohibited foods, if the passenger has indicated he is carrying agricultural products on his Customs declaration form, or if one of APHIS' roving inspectors identifies a high-risk profile passenger. In secondary inspection, the APHIS inspector examines baggage and packages, and may even search a passenger's clothing. Any banned vegetables and meats are confiscated and quarantined. Although some people may attempt to smuggle prohibited goods, such incidents have declined since APHIS initiated fines of up to $50 which can be levied at the time of inspection.

Inspection activities at land borders are severely constrained because of the extremely large number of people crossing U.S. borders by car or foot daily. Eighty-seven percent of all passengers processed in 1986 traveled by land.[15] A large number of people crossing at land borders from Mexico and Canada stay in the United States less than a day or are commuting workers. These circumstances lead to a huge number of crossings daily and necessitate different inspection procedures.

People crossing the border by car are met by inspectors in facilities that are much like toll booths. Those crossing by foot often pass through a turnstile or revolving gate. For immigration purposes, inspectors are required to determine nationality and status, but there is typically less documentation involved. In particular, while most U.S. citizens arriving at airports carry passports, most citizens crossing land borders do not. Inspectors must rely on responses to a series of questions to determine American citizenship. Because of the land border volume, peak passenger waiting time is expected to be 55 minutes in 1988 and 1989, similar to 1986 and 1987.[16]

At the Mexican border, inspectors employed by INS, Customs, APHIS and Public Health Service are "cross-designated" and may simultaneously perform primary inspection functions for all four agencies. (Cross-designated inspectors are agency personnel who have been formally appointed as "excepted" inspectors by INS, Customs and APHIS.) If secondary inspection is necessary, those persons or vehicles are referred to the appropriate agency personnel. The APHIS inspectors are generally only involved in secondary inspections, as they are in airports.

Obtaining a passport for the first time requires a visit to one of 14 regional locations of the Passport Services Office or one of the many designated clerks of court and post offices. A number of items must be presented at the time of application including evidence of U.S. citizenship, such as a birth certificate; a recent identification card, such as a driver's license; two passport photos; and a $37 fee for those aged 18 or over (with an additional $5 processing fee if an applicant elects to go through a county clerk office). Waiting time at a regional center varies greatly depending on office and time of day. Personnel accepting the passport application have the responsibility to decide whether the documentation accurately represents the person applying. If accepted by a clerk of court or a post office, the application is sent to a regional office for processing. Most completed passports are received by mail by the applicant in 10 to 21 days. An exception is made for those people who can demonstrate immediate departure, usually by presenting an airline ticket with the departure date. In these cases, the applicant can submit his application to a regional office in the morning and pick up a completed passport in the afternoon.

Applications for subsequent passports can be acquired at the regional passport offices or from designated clerks of court and post offices. The old passport, new passport photos and the $37 fee must be mailed with the renewal application. The second passport is then processed through a regional office much like a new passport. In 1983, the Passport Office began issuing passports with 10-year validation periods rather than for five years in order to reduce workload and increase convenience for the public.

Current Issues

The agencies involved in inspection activities have been working on ways to increase enforcement, while not necessarily increasing staff size. The red/green system is one example of a program which has enabled Customs to process more passengers per inspector. The Target Flight Connector System is a recently developed flight profiling system which allows Customs to coordinate staffing to most effectively deal with arriving flights identified as high enforcement threats. Such programs have allowed Customs to maintain a relatively stable number of inspectors, even as international travel has greatly increased.

The development of Citizens Bypass by INS has simplified processing for U.S. citizens at major airports. The program was developed in 1978 in the face of a staffing shortage at Dulles Airport in Washington, D.C. INS has trained Customs inspectors in immigration laws and regulations and designated them with primary inspection responsibility. The program is in effect in several major airports, but has been found to provide inadequate enforcement. Currently, there are no plans to expand the program.

A program with greater prospects for success is preinspection border services. As a test in Shannon, Ireland in 1986, INS stationed inspectors to process passengers before boarding flights to the United States. Preinspection avoids the bottlenecks created by passengers arriving at the inspection stations all at once when a flight lands. The procedure was found to be effective and discussions with several foreign countries are underway to expand the program.

Much like Customs and INS, APHIS has worked towards decreasing processing time while attempting to increase detection. Their most innovative approach may be the USDA Detector Dog program in which beagles are used to detect prohibited agricultural products. The program's success has led to plans to expand the use of beagle teams in the future. A more commonplace method of detection, x-ray systems, have been used in Hawaii and Puerto Rico since 1982 and are being tested for use at airports in Miami and San Francisco. Composite profiles of travelers likely to be carrying prohibited items have been developed to assist inspectors and have been found to help increase detections by 20 percent.[17] In addition, APHIS operates a number of preinspection sites at foreign points of departure, which avoid passenger delays and intercepts contraband at the source. These programs combined with public information campaigns are helping to increase the agency's productivity.

The increase of user fees throughout federal government agencies reflects the prevailing belief that those who benefit from a certain service should incur a greater share of the cost of providing that service. Although these fees are often controversial, some agencies have found them beneficial in enabling them to provide better service. The U.S. Customs Service and the Immigration and Naturalization Service each charge fees of five dollars, incorporated into the price of an airline ticket (except on flights from Canada, Mexico, and the Caribbean) to reduce some of the costs of inspection at ports of entry. The fees are deposited in a fund which provides a steady source of finance up to a level allowed by Congress, so that the agencies are less subject to budget fluctuations. In particular, INS has increased its staff, which is a major step in shortening waiting time for international travelers. Reimbursements by the airlines for inspection staff overtime have been discontinued since user fees were initiated.

Because the management of U.S. borders is the responsibility of several federal agencies, with no agency forming overall policy, there have been repeated charges that the multi-agency approach to border control has caused confusion, overlap in effort, a lack of policy coordination and poor service to the public. Most recently, the President's Private Sector Survey on Cost Control (PPSSCC) examined the problem and proposed the development of a comprehensive border policy, primarily in regard to

INS and Customs.[18] Additionally, the PPSSCC recommended that one agency have responsibility for all primary inspections at ports of entry. Though the focus of the PPSSCC report was cost savings, other benefits resulting from the recommended reorganization included simplified passenger processing and fewer forms to be filled out by travelers.

The consolidation plan presents great political hurdles. The agencies appear unwilling to relinquish any duties and the overseeing Congressional committees are reluctant to lose any authority in these areas. Other organizations such as the Office of Management and Budget, the General Accounting Office and the agencies themselves have advocated integrated inspection functions, but none of these plans have been implemented. The PPSSCC report did not provide a plan for reorganization and did not address the key question of specifically which agency should assume the inspection responsibility. Although primary inspection at land borders is currently conducted by cross-designated inspectors, INS and Customs have no immediate plans to further consolidate their inspection forces. It appears unlikely that such a plan will be carried out in the near future.

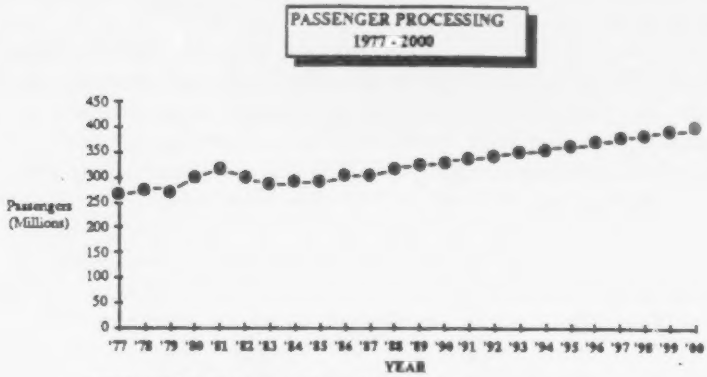
Impact of Future Trends

There are two major sources of demand for border management services: international business travel and international leisure travel.[19] The demand from each source is influenced by a number of factors. For example, international business travel results from the internationalization of business which depends on a lack of trade barriers, the growth of multi-national firms, and growth in the size of foreign markets. International leisure travel tends to be greatly influenced by relative exchange rates for foreign travelers, and by incidents of terrorism for American travelers. Beyond these rather specific factors are general societal trends, such as a growing population, increases in leisure time and increases in personal income. A survey taken in 1987 indicated that 21 percent of air trips taken to Mexico or the Caribbean and 35 percent of all other international air trips were for business purposes.[20] The balance of international travel was for pleasure and personal reasons, usually to visit friends and relatives or to sightsee and visit resorts.

Figure 7-2 shows that there have been gradual increases in the number of people inspected over the past decade, reflecting the increase in international traveling in those years.

Most of the influencing factors described above have favored an increase in both types of travel. Projections for passenger processing are available from Customs through 1993. The key factors considered in Customs' projections are personal consumption expenditures, the exchange rate, the trade balance, inflation, disposable income and oil prices. The annual growth rate expected from 1987 to 1993 is about 3.8 percent for air passengers, 2.2 percent for land and 0.9 percent for sea, or a 2.4 percent rate overall. The Federal Aviation Administration is forecasting at least a four percent annual increase from 1987 to 1998 for international passengers originating in the United States.[21] Compared to the less than one percent expected rate of growth for the entire population, these are high rates, particularly for air travel.[22] If this trend continues into the year 2000, 400 million people will

FIGURE 7-2


PASSENGER PROCESSING
1977 - 2000

SOURCE: 1977-1993: U.S. Department of Treasury, U.S. Customs Service.
1994-2000: Project 2000 Projections.

enter the United States annually, an increase of 80 million people or 32 percent over 1986. The largest growth will occur in air travel, rising 57 percent to 54 million air passengers by the year 2000.

Most models predicting international travel are based on macroeconomic variables, but the future trend of demographic factors will influence travel demand in several important ways described here. As the median age rises from 31.5 to 36.3, more people will fall into the 30 to 49-year old range, the group which has been found to fly most frequently.[23] Demand for travel services may be dampened by increases in the over 75 population who generally travel less internationally. Also, as immigrants continue to enter the United States over the next decade, there will be increased motivation to visit family and friends abroad.

In regard to the U.S. economy, the anticipated increase in linkages with the world economy will be a strong force in raising the demand for travel for business purposes. Leisure travel should increase due to the moderate rise foreseen in per capita income, as travel is directly related to income levels.[24] Both leisure and business trips will escalate along with a range in predicted growth of 1.6 percent to 4.0 percent in gross national product (GNP). Looking at the future workforce, many entrants will be women who have historically not occupied business positions that have required travel. While the percent of business trips for women is gradually increasing, this factor is not likely to contribute to international travel in the near future.

Projections related to the airline industry indicate that the cost of flying will increase and may depress consumer travel spending. Higher fuel costs are expected due to recent increases in oil consumption and declining oil exploration.[25] The recent mergers and resulting concentration within the airline industry has caused some concern that consumer prices will ultimately increase and cause decreasing growth in the number of passengers. Furthermore, landing fees may increase greatly in the future as landing capacity at airports reaches its limits.

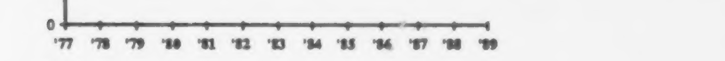
Though difficult to forecast, the loss of consumer confidence due to high-profile terrorist incidents is expected to recover.[26] Terrorism has had severe effects on international travel in recent years, particularly in regard to American tourists. Advancements in aviation security have helped to ameliorate public perception, but airline officials remain cautious about the future.[27] -

A significant component of business travel consists of workers commuting from or to Mexico and Canada. INS estimates that it inspected 285.7 million people in 1986 who were "border crossers", that is, foreign nationals and U.S. citizens who enter the United States from Canada or Mexico for brief periods or in a commuter status.[28] (Since each commuting worker is counted once during each crossing, the total number of individuals who cross the border is much smaller.) The future growth in the number of commuters depends on the relative economic health of the neighboring countries. Canada's output and employment exhibited one of the fastest growth rates among industrialized countries during 1986 and near-term prospects are quite favorable.[29] The prospects for Mexico, however, are not as favorable. A heavy debt burden, high inflation and sagging oil prices are likely to lead to continued economic problems.[30] Since an overwhelming majority of commuting workers originate from Mexico, their numbers are likely to increase in the future.

Overall, the predominant future trends (i.e., increasing population, GNP growth and disposable income) support industry and government projections for future international travel. To meet the increase in travel, the inspection and passport examination staff has also risen, as shown in Figure 7-3. Staff levels are only projected a few years into the future at best, usually for budgeting purposes. The agencies are relying on improvements in operational efficiency to meet future travel growth as little

FIGURE 7-3

INSPECTION AND EXAMINATION STAFF
1977 - 1989



SOURCE: Customs; APHIS; INS; CA.

expansion in staff is foreseen in the near term. Due to forecasted constraints on the federal budget and stable per capita nondefense discretionary outlays through the year 2000, the reliance on productivity improvements will continue in the future.

Preparation for the Future

Current Plans

Customs, INS, APHIS and CA do not have specific long-range plans for passenger inspection and passport processing. The term "long-range plan" is used here to describe program-wide objectives and initiatives designed to meet needs more than 10 years into the future. One reason there are no such plans is that these programs are part of larger and more general five-year planning documents. The Customs' Office of Passenger Enforcement and Facilitation, for instance, is a part of a plan prepared for the entire U.S. Customs Service. Unfortunately, these general plans deal with the specific offices only vaguely, and do not detail particular initiatives. Another reason for the absence of plans is the relative size of these programs. Although there is a great amount of public interaction in these programs, their budgets are small compared to other programs within the same agency.

Despite the absence of long-range plans, the agencies are pursuing some programs that will have long-term effects on service delivery. Most of these initiatives were described above and include the implementation of passenger profiling, x-ray inspection, preclearance sites, detector dogs and cross-training of border inspectors. Other important programs affecting service are enforcement related, such as the improvement of Customs' enforcement data base systems. As enforcement becomes more efficient, the burden of inspection is shifted away from the average passenger.

Probably the most far reaching program of the inspection and passport issuing agencies is the implementation of machine-readable documents. These documents are visas and passports containing two lines of personal identification information which can be read by an optical scanner. These scanners are connected to computer systems at port of entry inspection stations and assist inspectors in verifying passenger admissability and reviewing "lookout" databases for fugitives, smugglers, etc. Using a standardized format set by the International Civil Aviation Organization, the Passport Services Office began issuing machine-readable documents from the Washington, D.C. regional office in 1981. Currently, 11 out of the 14 regional offices issue machine-readable documents. Customs will finalize delivery of scanning equipment to major airports throughout the United States by March 1988, and INS is working on plans to establish its own system shortly. When implemented, the system should decrease processing time, as well as increase enforcement efficiency.

Machine-readable capability is intended to go further than simply enabling inspectors to process more passengers. Customs foresees a joint program with the airline industry to establish a system in which machine-readable visas and passports are scanned by the airlines at the point of departure and the information is linked to Customs' systems at the point of arrival. Such a procedure would hasten the movement of passengers, allow existing facilities to handle a heavier load of passenger traffic, and shorten the time between connecting flights. A more futuristic version seen by an industry specialist is an optical scanning turnstile system at boarding areas able to admit persons if they have the appropriate documentation and are not identified as security threats.[31]

The agencies are also working towards furthering cooperation in a number of areas. Customs and INS are working towards standardizing documents which can be read by machine by both inspection systems. The Department of State will issue machine-readable visas in several worldwide locations. Standards for the construction of inspection facilities are being revised to better serve the changing environment in the airline industry, particularly the growth of airline hubs. Also, INS and Customs are discussing the possibility of integrating their separate data bases, as they serve similar enforcement purposes.

Assessment

The agencies' long term planning efforts are geared to improving inspection, compliance, and enforcement efforts. The importance of these activities should not be overlooked. However, each of the agencies participates in daily contact with the public, whose needs and expectations for convenience and quality service are important. Rather than perceiving the importance of the public as consumers of federal services, a concept that is gaining wide recognition, the agencies consider traveler needs only after enforcement and funding considerations.[32] The agencies' planning efforts should better balance the competing goals of protecting the nation's borders and servicing the traveling public.

For all types of travelers, the most important element of service is processing time, including both waiting and inspection time. In a recent survey, "fast border controls" were cited by over half of the respondents as one of the most important features of an airport.[33] Other important elements of service include well-designed physical facilities and courteous personnel. As in traveler inspection, the most important element of service in passport issuance is processing time. Other important elements are the convenience of filing applications and the accuracy of resulting documents. These service elements should be addressed in the agencies' planning efforts.

Recommendations

Efforts to protect the nation's borders should not be deemphasized. Further steps can be taken, however, to improve service to the traveling public.

Improvements in passport processing are limited by the number of regional passport offices. Although a passport can be obtained in one day, it requires a visit to one of these centralized offices. (An exception to this is provided by visa services, private firms which will guide an application through the required processing for a fee.) One solution, increasing the number of offices, is impractical because the economies of scale in processing would diminish. Over the long term, the Passport Office should consider on-line connections to vital information data bases. Such a linkage would eliminate much of the documentation required by citizens (such as birth certificates) and would speed processing. If the proper security precautions are in place, this could create an opportunity to provide passport services at a wider range of government offices. This possibility should be considered by CA in future planning.

To increase facilitation of passenger processing, the concept of consolidated inspection consistently appears throughout reports prepared inside and outside of the agencies. Customs and INS have both advocated better cooperation, but as yet no long-range objectives have been identified. Some guidance to approaching the situation is provided in a recent study prepared by the Air Transport Association of America.[34] In various reorganization recommendations, the study emphasizes the need for a single point of contact between travelers and federal agencies for primary inspection. It seems contradictory to support fragmented inspection services at air and sea ports of entry while pursuing coordinated land border inspections.

As machine-readable capability becomes more pervasive, the reasons justifying separate inspection staffs will diminish. The long-range effects of this new technology should encourage a new perspective on passenger processing. To avoid future redundancy and overlap, the agencies need to develop unified management plan as part of current technology development.

As advocated by previous studies, the most effective structure for improving service and developing new technology is one primary processing point, either through cross-designating inspection staff or combining workforces into one agency.[35] This recommendation makes increased sense for the future because of:

- Historical precedent - For example, responsibility for inspections which were once conducted by the Public Health Service is now largely in the hands of Customs and INS, demonstrating the feasibility of consolidation.

- Limits on physical capacity at entry points - Many facilities provided by airports and at land borders are straining to handle the recent growth in international travel, becoming a large factor in delays. Consolidation of primary inspection would enable a more efficient use of space.

- Increased ability of inspection staff to handle multiple responsibilites through technology - The inspector's duties are more easily performed using computerized enforcement data bases and machine-readable capability, thus facilitating a combination of tasks.

- Anticipated high growth rates in international travel - Between 1987 and 2000, an annual growth rate greater than two percent is possible, resulting in an additional 80 million people entering the United States in the year 2000. Continued budgetary constraints makes savings gained through consolidation more attractive.

As further steps to improving service in the future, it is recommended that the agencies establish systems to measure processing time for inspection and passport applications; continue efforts to improve the coordination between federal border management agencies and the private sector; and develop projections and long-range plans to prepare for future demands on the agencies' services.

While efforts to safeguard the border should not be diminished, the needs and expectations of the traveling public should be considered in improving border management operations. The measures outlined here will help accomplish both goals, improving service to the public and making border management a more efficient and effective process in the future.

Information Collection and Dissemination

Three trends affecting the federal government's collection and dissemination of public information in the future are: the spread of electronic information technology, the growth of the computer-literate population and the increased demand for information as a result of the growing complexity of public and private organizations. Each of these trends will lead to an increasing demand for accurate and timely public information on such topics as demographics, economics and weather.

As in many other areas, such as health care, the application of technology to information collection and dissemination is proceeding faster than the development of the public policies to guide it. This report recommends the development of a comprehensive policy for the electronic collection and dissemination of information. This policy would shift the focus of information systems planning from the efficient use of technology to effectively providing for public information needs. This policy should also consider the impact of automation on the barriers to public access, and should establish a rational and consistent basis for the pricing of information.

Postal Service

Future trends affecting the U.S. Postal Service (USPS) include a continuing decline in the use of the mails for personal communications, but continuing growth in the use of mail for direct marketing.[15] This study projects that by the year 2000, only one letter in twenty carried by the USPS will be personal communication.

Although the USPS has an impressive automation program, the system remains highly labor intensive. Given that mail volume growth will continue, major service improvements will require intensive efforts to achieve labor cost savings. Efforts to contract out for pickup, delivery, and sorting facilities should be expanded. The lengthy and cumbersome regulatory environment for introducing new services must be streamlined for the USPS to quickly react to customers' preferences and competitors' innovations. But ultimately, the role of the USPS as a public institution should be reexamined. The regulatory structures that guarantee a postal monopoly but impede innovative operations may no longer be appropriate for meeting the future demands of postal customers.

Border Management

Growth in international travel is expected to cause the number of travelers inspected by the U.S. Customs Service and the Immigration and Naturalization Service to increase by 80 million by the year 2000.[16] While this represents a 32-percent increase over 1986 levels, inspections performed at the nation's airports are expected to increase by 57 percent, adding to the already acute bottlenecks facing incoming travelers.[17]

Previous studies have called for the consolidation of the nation's border inspection services. This report recommends that consolidation of primary inspection services be pursued. In addition to making inspections more convenient for travelers and more efficient for the agencies involved, the consolidation of primary inspection could help to solve the facility space problems currently experienced in some of the nation's airports. The recent installation of optical character readers with the capability of verifying machine-readable visas and passports will enable a single inspector to perform both citizenship and customs inspections. Continued advances in automation will further facilitate the consolidation of tasks and should be pursued, with the ultimate objective being the creation of a unified primary inspection function.

Governmentwide Recommendations

The analysis of the five program areas has provided an understanding of the impact that future trends will have on the federal government's ability to deliver services to the American citizen. Based on this understanding, the following general recommendations are made. These recommendations are directed at broad areas of government service delivery and not the particular issues of the specific program areas.

Focus Attention on Service Provision

During the past several years, the focus of federal management has been on improving the efficiency of operations. The results of this emphasis are impressive: between 1980 and 1986, the output per federal employee year has increased by 8.3 percent.[18] However, to promote improvements in service delivery in the future, the emphasis on efficiency must be balanced with an equal emphasis on service quality and meeting the needs of the customer.

First, this will require the revision of certain OMB-mandated planning, budgeting, and reporting requirements to include explicit consideration of the customer. The cost-benefit analyses required to justify large information systems, for example, seldom include an assessment of the system's impact on measures of service delivery in the quantification of benefits. Similarily, the program output measures included in an agency budget submission generally consider only productivity and not those measures of performance that are relevant to the program recipient. All of these budgeting and planning processes should be modified in order to place a greater emphasis on quality of service when allocating federal resources.

Second, the personnel polices affecting those federal employees who directly interact with the public should be reviewed. Even in the future, federal services will be primarily delivered by people. Delivering the mail, inspecting passengers or answering case-related questions can never be fully automated. Therefore, it is essential that personnel policies are in place that provide incentives for service excellence and promote the hiring of motivated personnel.

34. Third Class Mailers Association, Recap of Intervenors Testimony in R87-1, TCMA, Washington, D.C., November 1987, p. 24.

35. Garrity, p. 171.

CHAPTER SEVEN - Border Management

1. Unless otherwise noted, all years mentioned in this paper are U.S. fiscal years (October 1 - September 30); Department of the Treasury, U.S. Customs Service, Customs Performance Report, Fiscal Year 1986, pp. 90, 98, 128, and 129.

2. A port of entry is a place where foreign goods may be cleared by a customhouse or where an alien may be permitted to enter a country.

3. Executive Office of the President, Office of Management and Budget, Budget of the United States Government, Fiscal Year 1988 - Appendix, U.S.Government Printing Office, Washington, D.C., 1987, p. I-S14. This figure represents the 1988 estimated program, the first year that commercial and passenger operations are reported separately.

4. Customs Performance Report, p. 17.

5. U.S. Department of the Treasury, U.S. Customs Service, Budget Division, Office of Financial Management and Program Analysis, unpublished program information, November 13, 1987.

6. Budget of the United States Government, Fiscal Year 1988 - Appendix, p. I-017.

7. The inspection of international travelers is under the Associate Commissioner for Examinations but is considered part of the overall enforcement effort and is actually included in the enforcement budget.

8. Department of Justice, Immigration and Naturalization Service, "INS Inspections Program Historical Data," table, unpublished.

9. U.S. Department of Agriculture, Animal and Plant Inspection Service, APHIS Facts, July 1986, p. 4.

10. U.S. Department of Agriculture, Animal and Plant Health Inspection Service, information provided by Office of Port Operations, National Programs, Plant Protection and Quarantine; APHIS Facts, p. 1.

11. Office of Port Operations. Expenditures include passenger and commercial inspection activities.

12. U.S. Department of State, Bureau of Consular Affairs, Office of the Director, unpublished workload information, September 1, 1983; U.S. Department of State, Bureau of Consular Affairs, Passport Services, January 1984, p. iii. As of December 31, 1983, 17.3 million passports were outstanding. More recent data is not available.

13. Bureau of Consular Affairs, Office of the Director, unpublished workload information.

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15. Customs Performance Report, pp. 128, 129.

16. Spring Budget Submission.

17. APHIS Facts, p. 3.

18. President's Private Sector Survey on Cost Control, Task Force Report on the Department of the Treasury, Working Appendix, Vol. II of II, Washington, D.C., Government Printing Office, 1983, pp. 86-100.

19. It should be noted that some of these activities may be unlawful, such as drug smuggling.

20. Air Transport Association of America, 1987 Air Travel Survey, conducted by The Gallup Organization, Inc., 1987, p. 17.

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23. 1987 Air Travel Survey, 1987, p. 9.

24. Ibid., p. 8.

25. Michael K. Evans, "U.S. and World Economic Outlook and Its Impact on Aviation," Twelfth Annual FAA Aviation Forecast Conference Proceedings, February 1987, p. 64.

26. Graham L. Watts, "Factors Impacting European/North Atlantic Air Travel Demand," Twelfth Annual FAA Aviation Forecast Conference Proceedings, February 1987, p. 70.

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31. Conversation with Eric Vincenden, International Air Transport Association, Montreal, Canada.

32. See: "Administration as Service: The Public as Client," The OECD Observer, October/November 1987, pp. 10-11.

33. International Foundation of Airline Passenger Associations, IFAPA 1987 Passenger Survey, November 1987, p. 5.

34. Air Transportation Association of America, Analysis of Federal Inspection Agency Management and Organization, April 1983, p. 25.

35. Task Force Report on the Department of the Treasury, pp. 1-21; Analysis of Federal Inspection Agency Management and Organization, pp. 14-25.

II. CONGRESSIONAL RESEARCH SERVICE STUDIES

Report No. 78-128 Gov

THE U.S. CUSTOMS SERVICE: HISTORY, REORGANIZATION, AND CONGRESSIONAL JURISDICTION

by

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June 6, 1978

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THE U.S. CUSTOMS SERVICE: HISTORY, REORGANIZATION, AND CONGRESSIONAL JURISDICTION

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THE U.S. CUSTOMS SERVICE: HISTORY, REORGANIZATION, AND CONGRESSIONAL JURISDICTION

> Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States.
> U.S. Constitution, Article 1, Section 8

The constitutional power of the National Government--to lay and collect taxes, duties, and imposts--provides the rationale for the existence of a Federal customs service, situated since 1789 in the Department of the Treasury. This report examines that institutionalization through the present U.S. Customs Service, including some of the major reorganizations, actual and proposed, affecting it. In addition, other sections detail Customs post-World War II growth in terms of personnel and budget authorization; the congressional committees with legislative and oversight jurisdiction over the Service; and a selective bibliography for further examination.

I. Historical Development of the U.S. Customs Service

Despite the lengthy and important heritage of customs service for the United States, there is no current authoritative history of the U.S. Customs Service or, incidentally, for the parent Department of the Treasury. Two, now-dated, works, however, deserve special mention for their coverage of the early development of the Customs Service and the primary duty of customs collection: i.e., Laurence Schmeckebier's 1924 study of the history and organization of the

Service 1/ and the Bureau of Customs 150th anniversary (1939) summary history of tariff legislation and customs collection. 2/

This section of the report has two main subdivisions: the inception and original rationale of the customs service in 1789 and major organizational developments during its history.

A. Inception and Original Rationale of the Customs Service, 1789

The constitutional authorization of a congressional power to lay and collect customs duties had a two-fold significance: philosophical and pragmatic. The power in Article 1, Section 8 of the Constitution reflected a new principle in the governance of the United States: the establishment of certain exclusive powers held by the national government and the related dramatic transformation of Federal-State relations. In a more pragmatic vein, the customs power was a virtual necessity to ensure the financial solvency of the National Government and to stabilize the domestic economy.

Customs duties and the concomitant collection responsibility, in this regard, was designed to serve two interrelated purposes: (1) to provide revenues for the Federal Treasury, since under the previous Articles of Confederation, the several States failed to fund adequately

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1/ Laurence F. Schmeckebier. The Customs Service: Its History, Activities and Organization. Baltimore, Johns Hopkins Press, 1924. This volume was one of a series of monographs on the United States Government prepared under direction of the Institute for Government Research (Brookings Institution).

2/ U.S. Treasury Department. Bureau of Customs. Collecting the Customs: Summary History of the Development of the Tariff in the United States and Its Administration. Washington, U.S. Treasury Department, 1939.

the operations of the National Government; and (2) to assist in improving domestic commerce and commercial arrangements, both by establishing tariff duties on foreign imports and by eliminating the destructive effects of the multiple, competitive and non-uniform duties erected by the various States against foreign and other-State importation.

The initial tariff act--An Act for Laying a Duty on Goods, Wares and Merchandises imported into the United States (1 Stat. 24)-- was symbolically approved on July 4, 1789 and proclaimed by the press at the time as a "second Declaration of Independence." 3/ Its importance is underscored by noting that it was the second act passed by the new Congress operating under the 1789 Constitution.

The initial tariff act was implemented within a month through the creation of machinery for such tariff duties collections. An act of July 31, 1789 (1 Stat. 29-49) provided for the establishment of customs districts and ports of entry, the appointment of customs officers and the method of collecting the duties.

The constitutional foundation of these establishments and subsequent tariff acts is found in Congress' powers in Article 1:

> To levy and collect taxes, duties, imposts, and excises;
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> To regulate commerce with foreign natio[illegible] and among the several States; and

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3/ Cited by Vernon D. Acree. Customs Service, United States. Dictionary of American History. New York, Charles Scribner's Sons, 1976, Vol. II, p. 275.

To provide for the general welfare. 4/

These provisions, especially the first clause, found extensive and explicit defense in the Federalist papers authored by James Madison and Alexander Hamilton. The latter, in Federalist No. 12, "Union and the National Revenue," cites the need for standardizing commerce through import duties, which would also provide the principal revenue source of the national treasury:

> ...far the greatest part of the national revenue is derived from taxes of the indirect kind, from imposts, and from excises. Duties on imported articles form a large branch of this latter description. In America, it is evident that we must a long time depend for the means of revenue chiefly on such duties.

Madison, in Federalist No. 44, commenting upon the "Restrictions on Powers of the States," recognized that even under the Articles of Confederation, the Congress had some authority over and could benefit from State action in this area. The appropriate Article read:

> No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws, and the net produce of all duties and imposts laid by any State on imports or exports, shall be for the use of the treasury of the United States...

Moreover, both constitutional defenders interpreted a related, but by no means incidental, benefit from Federal power over importation and the imposition of customs duties. Madison raised the controversial issue of slavery, and its "discouragement," in explicating

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4/ Schmeckebier, op. cit., p. 3, points out that the third clause — to provide for the general welfare — provides the authority for purely protective tariffs.

the "Powers Delegated to the General Government" (Federalist No. 42). Such powers would incorporate the authority:

> ...to regulate foreign commerce, including a power to prohibit, after the year 1808, the importation of slaves, and to lay an intermediate duty of ten dollars per head, as a discouragement to such importations.

Pragmatically, Hamilton, continuing the arguments in Federalist No. 12, perceived additional advantages of a nationally centralized customs-importation administration that would also protect against smuggling, a continuing disruption to licit trade and commerce:

> A few armed vessels, judiciously stationed at the entrance of our ports, might at a small expense be made useful sentinels of the laws...

By advancing this idea, Hamilton acted as harbinger for the Revenue Cutter Service, originally under the direction of the Customs Service and the forerunner of the Coast Guard.

The actual establishment of a customs service, via the act of July 31, 1789 (1 Stat. 29-49), in fact antedated the creation of the "parent" cabinet department, the "Department of Treasury," as originally titled. Under the Department's establishing authority, an act of September 2, 1789 (1 Stat. 65), the Secretary of the Treasury:

> was to superintend the collection of the revenue, [and] the Customs Service automatically became a part of the Treasury Department, as section 9 of the act of July 31, creating collection districts, provided that customs officers should keep their accounts in such manner as "may be directed by the proper department, or officer appointed by law to superintend the revenue of the United States." 5/

5/ Ibid., p. 7.

By establishing the Customs Service, Congress provided for some of the first Government investigators under the new Constitution, 6/ since customs agents in the performance of their myriad duties developed an investigative capacity. Moreover, Customs provided some of the initial field services of the Federal Government through the collection districts and ports of entry, each staffed by three customs officers, a collector, naval officer, and surveyor. 7/ The original and expansive duties of this combination of personnel were "specified in considerable detail ..." 8/ by the establishing legislation:

> the collector assessed customs and tonnage dues and employed "proper persons" as weighers, gaugers, measurers, and inspectors, as well as seamen to man boats in the revenue service; the naval officer countersigned all orders of the collector, received copies of manifests, and in general acted as a check upon the collector; the surveyor, who superintended the weighers and measurers, was under the joint control of the collector and naval officer. The customs service, which also became responsible by delegation for the lighthouses, immediately took its place as the most important field organization of the time. 9/

In 1790, Congress appropriated $10,000 to build ten cutters for the improved protection of the customs and placed them under the direction of the customs collectors. This establishment of a Revenue Cutter

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6/ U.S. Treasury Department. Task Force Report of a Study of the Customs Agency Service, Bureau of Customs. Washington [Treasury Department] 1963. p. 1.

7/ Leonard D. White. The Federalists: A Study in Administrative History. New York, The Macmillan Co., 1948, p. 199.

8/ Ibid., p. 200.

9/ Ibid.

Service was a logical successor of the original customs service administrative authorization (1 Stat. 37) that included a surveyor at each port, whose duties included "the employment of the boats which may be provided for securing the collection of revenue." The statutory provision for cutters was also a necessary successor as the July 31, 1789 act failed to provide for the vessels themselves. Since there was no navy at the time, "the Treasury Department was the logical, indeed the only, place for the Revenue Cutter Service ...[which was, in effect] a floating police force..." 10/

B. Major Organizational Developments Affecting the Customs Service

The Customs Service has remained within the Department of the Treasury since its establishment in 1789. Despite this element of organizational stability, Customs has been affected by numerous major administrative changes and reorganizations throughout its history. This is in part due to the original assignment of multiple and highly specialized duties, transcending several policy jurisdictions, the transformation of which might necessitate organizational modifications.

Illustrative of such a change is the Revenue Cutter Service, established in 1790 under the supervision of the Customs Service. The Revenue Cutter Service eventually was transferred to the Coast Guard, a governmental entity that has itself been legislatively stationed in two Departments — the Treasury Department (1915) and

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10/ Arthur Millspaugh. Crime Control by the National Government. Washington, Brookings, 1937, p. 65.

the Transportation Department (1967) — as well as being a branch of the U.S. Armed Forces, operating as a part of the Navy.

Customs diverse original duties served as forerunners to several of those undertaken by other Federal establishments. Among those duties were serving as pension agents for military personnel, presently an assignment of the Veterans' Administration; gathering and recording statistical information, a service of the Census Bureau, and providing statistical information on immigrants, a duty residing with the Immigration and Naturalization Service; collecting hospital dues for disabled seamen, a precursor to the Public Health Service; and developing a uniform system of standard weights and measures for all Customs houses, presaging the Bureau of Standards. 11/

Some of the major organizational developments affecting the Customs Service are highlighted below.

1. Customs Agency Service: In the 1789 Act creating the Department of the Treasury, the Secretary was empowered "to superintend the collection of revenue" and to employ "special agents" for that purpose. Such special agents were organized in 1869 into a Special Agency Service, following recommendations advanced by then-Secretary of the Treasury George S. Boutwell. 12/ A year later, Congress provided for the for the statutory appointment of 53 special agents (16 Stat. 122-123):

11/ U.S. Treasury Department. Customs Service. U.S. Customs Service: Protectors of Independence Since 1789. Washington, U.S. Govt. Print. Off. [1976], p. 5.

12/ U.S. Treasury Department. Task Force Report of a Study of the Customs Agency Service, p. 1.

> ...for the purpose of making the examination of books, papers, and accounts of collectors and other officers of the customs... and to be employed generally, under the direction of the Secretary, in the prevention and detection of frauds on the customs revenue.

According to a Treasury Department task force report on the Customs Agency Service:

> The Special Agency Service retained its name and independent character until 1915 when Secretary W.G. McAdoo transferred it to the Division of Customs of his office. The Special Agency Service remained under the Division of Customs until 1922 when Secretary Andrew W. Mellon restored it to its former independent status under a chief, Speical Agency Service.
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> An act of March 4, 1923, created a director to head the Bureau of Customs and another to supervise the Special Agency Service, both organizations retaining their separate status under the Treasury Department.[13]

The separate and independent status of the Special Agency Service was maintained until the entire customs structure was reorganized by an act of March 3, 1927 (44 Stat. 1381), which established the Bureau of Customs and incorporated within it the Special Agency Service. Two years later (May 1, 1929), the Agency was retitled the Customs Agency Service and its agents renamed Customs Agents.

The Customs Agency Service assumed other elements, integrating on May 2, 1960, the entire Customs Enforcement Officer force, transferred from the Collectors of Customs to serve:

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[13] Ibid. The Secretary of the Treasury issued an order (T.D. 38982), dated Jan. 23, 1922 and effective Feb. 1, 1922, establishing the Special Agency Service as a separate unit to coordinate with the Division of Customs. See also Schmeckebier, op. cit., p. 28 and 95-96.

> in a balanced program utilizing uniformed, fixed post, and mobile patrol functions, plainclothes operations, and vessel searching in coordination with the intelligence gathering and investigative functions of the Customs Agency Service.14/

In 1960, the Washington headquarters office was renamed the Division of Investigation and Enforcement, later becoming the Office of Investigations, headed by an assistant commissioner.

2. Customs Patrol: Even before the adoption of this guard force, the Customs Agency Service had acquired Customs Patrol inspectors. In 1936, that unit was transferred from the collectors of customs to whose districts they had been assigned; and their control was centralized in the Enforcement Unit of the Customs Agency Service. 15/ The Customs Patrol originated in calendar year 1853, as "mounted inspectors" assigned to patrol the Mexican border to prevent the smuggling of dutiable or illicit goods. 16/

14/ U.S. Treasury. Task Force Report of a Study of the Customs Agency Service, p. 2. The Customs Enforcement Officer force, then numbering 550, was the successor to the Customs Guard and Customs Port Patrolman, having been part of the staff in the districts of the Collectors of Customs.

15/ Millspaugh, op. cit., p. 68.

16/ 16 "mounted inspectors" were first recorded in the annual report of the Secretary of the Treasury for fiscal year 1854 (July 1, 1853-June 30, 1854), assigned throughout the year to the customs district at Brazos de Santiago, Texas, where the Rio Grande joins the Gulf of Mexico. U.S. Treasury Department. Report of the Secretary of the Treasury, on the State of Finances, for the Year Ending June 30, 1854. Washington, A.O.P. Nicholson, Printer, 1854, p. 445. Establishment of a customs district at Brazos de Santiago followed admission of Texas into the Union (Dec. 29, 1845) and included the disputed boundary between the United States and Mexico subsequent to the Mexican War (1846-1848). It is of interest to note that the 16 mounted inspectors in that district composed the largest single category of occupation among the 35 employees, and that their annual compensation of $610.25 was lower than other inspectors.

A uniformed force of Customs patrol officers was discontinued after 1948, but was reinstituted in 1973 in order to "shore up depleted resources for interdicting contraband (including drugs)," 17/ after the loss of drug investigative activities and personnel to the newly-established Drug Enforcement Administration (DEA). DEA was created by Reorganization Plan No. 2 of 1973 and acquired approximately 700 former Customs personnel. 18/

Beginning in October 1973, Customs patrol operations, transferred from the Office of Investigations, and the air and marine support functions were consolidated into one uniformed enforcement force within the Office of Operations. 19/ In April of 1974, an Office of Enforcement Support was established with the mission of supporting all Customs enforcement programs, including border patrol operations. 20/

3. Bureau of Customs: As indicated above, a separate Bureau of Customs did not exist within the Treasury Department until the act of March 3, 1927 (44 Stat. 1381) created such an entity, headed by a commissioner appointed by the Secretary of the Treasury. That act also incorporated the Special Agency Service, later retitled the Customs Agency Service.

17/ U.S. Congress. House. Committee on Government Operations. Law Enforcement on the Southwest Border. Washington. U.S. Govt. Print. Off., 1974. (93d Congress, 2d session. House. Report no. 93-1630). p. 2.

18/ Ibid. 500 investigators and 200 support personnel.

19/ U.S. Treasury Department. Annual report of the Secretary of the Treasury on the State of the Finances, for fiscal year ended June 30, 1974. Washington, U.S. Govt. Print. Off., 1974, p. 166.

20/ Ibid.

4. Reorganization Plan No. 1 of 1965: The most impressive recent organization development affecting Customs has been Reorganization Plan No. 1 of 1965. The Plan brought about a major realignment that decentralized much of the organizational structure. The new field organization consisted of nine regional offices and more than forty districts with supervision over nearly 300 ports of entry. Once Presidentially-appointed positions of collectors and comptrollers of customs were eliminated and replaced by Civil Service selection offices, the district directors who combined the duties of collectors and appraisers. 21/ (This reorganization is reviewed more extensively in part II.)

5. U.S. Customs Service: The present, official designation of the U.S. Customs Service was directed by Treasury Department Order 165-23 of April 4, 1973, effective Aug. 1, 1973. The current duties of the Service, along with operating the U.S. Customs Service Academy in Washington, D.C., are still broadly those assigned to its predecessor by the 1930 Tariff Act (46 Stat. 590 et seq.). 22/ Those traditional responsibilities are:

1) to assess and collect customs duties on imported merchandise;

2) to prevent fraud and smuggling; and

21/ For a detailed description, see U.S. Treasury Department. Customs Service. The Reorganization and After: A Progress Report. Washington [Treasury Department] May 1967.

22/ The 1930 tariff, commonly referred to as the Smoot-Hawley Tariff, is the most detailed of such legislation, extending for 173 pages of the Statutes at Large (46 Stat. 590-763). It was passed as Public Law 361 of the 71st Congress, 2d session on June 17, 1930.

3) to control carriers, persons and articles entering and departing the United States.

Customs Service duties presently extend to assisting in the administration and enforcement of more than 400 statutory or regulatory requirements related to international trade, implemented by seven offices within Customs:

(1) Administration: responsibility for basic management and administrative functions, including logistics, personnel, public affairs, and automatic data processing (ADP);

(2) Operations: jurisdiction over inspection and control, international operations, border patrol, regulatory audit, duty assessment, and AMPS program, among others;

(3) Investigations: special, general and fraud investigations as well as Customs attaches and senior customs representatives;

(4) Regulations and Rulings: resolution and legal determination for classification and value of importations, entry procedures and penalties, regulations and legal publications of Customs, and carriers and bonds;

(5) Internal Affairs: composed of the internal audit and internal security capability;

(6) Enforcement Support: elements of technical support, communications management, information management, and law enforcement systems; and

(7) Chief Counsel: supervised generally by the General Counsel of the Treasury Department, this Office is responsible for providing formal and informal legal advice and support to the Commissioner and officials on his staff in matters relating to the activities of the Customs Service, for preparing formal legal opinions, for reviewing proposed actions where necessary to insure compliance with legal requirements, and for preparing or reviewing responses in all court actions involving the Customs Service.

6. Summary: Two basic themes are evident regarding Customs organizational developments. The first is that the assumption of early Customs Service duties and activities by other Federal agencies--e.g., INS, DEA, Coast Guard--upon their establishment had occurred in areas where Federal responsibilities were expanding or substantially transformed and where there was evident jurisdictional overlap--e.g., illicit drug trafficking, coastal management and safety.

The second theme is that the Customs Service has acquired certain functional areas, such as law enforcement, as auxiliary to its primary function of revenue collection and importation inspection. Arthur Millspaugh, in the 1937 seminal examination of Federal crime control, has noted the common legacy of several major law enforcement units, each having adopted, evolved, or extended law enforcement as an ancillary or supportive activity:

> The influence of the requirements of auxiliary law enforcements is seen in such agencies as the Intelligence Unit of the Bureau of Internal Revenue, the Customs Agency Service of the Bureau of Customs, the Immigration Border Patrol, the Post Office Inspection Service, and, in the beginning, the Bureau of Investigation. Special social objectives, as well as the demands of auxiliary enforcement, largely account for the policing activities of the Bureau of Narcotics. In the Alcohol Tax Unit and its predecessors, the Coast Guard, and the Customs Patrol, one can see, not only the development of auxiliary enforcement, but also the administrative effects of changing public attitudes toward alcoholic beverages. [23]

II. Actual and Proposed Reorganizations, 1927-1977

Throughout its history, the Customs Service has been subject to numerous actual and proposed reorganizations. Those recommendations have emanated from varied sources, including internal Treasury Department and Customs Service task forces, Executive Office of the President units (e.g., Office of Management and Budget, Office of Drug Abuse

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[23] Millspaugh, op. cit., pp. 85-86. Millspaugh had examined Federal efforts during the era of Prohibition and found that "the enforcement of prohibition involved the Customs Service and the Coast Guard quite as much as the Bureau of Internal Revenue. To check smuggling of liquors into the country, the Coast Guard and the Customs Border Patrol were expanded; and in 1927 a law was enacted creating in the Treasury Department a Bureau of Prohibition co-ordinate with Customs and Internal Revenue..." Ibid. p. 71.

Policy), congressional committees, the General Accounting Office, and individual political analysts. This section of the report concentrates upon only some of the more important reorganizations that (would) have effected major changes or otherwise focused on Customs Service relationships with various Federal agencies, the more representative in terms of reflecting varied sources, and the more recent (viz., the immediate past fifty years (1927-77) of the 189-year history of a customs service). 24/ The major reorganizations and recommendations are arranged chronologically.

A. 1927 Reorganization

The fifty-year period under study commences with the reorganization of 1927 and the creation of an official Bureau of Customs within the Treasury Department by an act of March 3, 1927 (44 Stat. 1381). Previously, the Division of Customs Service existed within the Department but did not retain a separate bureau status, as had other units, such as the Bureau of Printing and Engraving, the Bureau of Public Health Service, or the Coast Guard.

The 1927 reorganization act also incorporated the Special (Customs) Agency Service, formerly under the direction of the Secretary of the Treasury, into the Bureau of Customs, thereby, substantially augmenting the investigative capacity of Customs. 25/ The Special

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24/ Prior to 1927 and the establishment of a Bureau of Customs, the Customs Service lacked an independent bureau status within the Treasury Department.

25/ By an Act of Congress, March 4, 1923 (42 Stat. 1453), the Special Agency Service was granted statutory recognition. See Schmeckebier, op. cit., pp. 30-31.

Agency Service, later retitled as the Customs Agency Service, possessed important internal protective duties that were transferred to the Customs Bureau. Arthur Millspaugh places this development in the perspective of the first quarter of the twentieth century:

> From day to day, however, smuggling and other more subtle forms of fraud and evasion are attempted, for the most part at and through the ports. To protect the customs revenues, as well as to maintain respect for laws generally, attempts to cheat the government must be investigated, violators apprehended, goods seized, fines and penalties collected, and criminal cases prepared for prosecution. Moreover, up to the World War, one-half of our national revenues was collected in customs offices. The Customs Service resembles the Post Office Department, in that both are great fiscal and technical organizations, maintaining many field stations and requiring carefully devised protective procedures. In both, criminal acts or collusion in such acts may occur inside the organization. Accordingly, in both, the personnel must be under rigorous inspection and the procedure subject to continual and expert scrutiny. An act of 1799 authorized the Secretary of the Treasury to have examinations made of the books of customs collectors. 26/

This lengthy heritage connotes an investigative force of "special agents" under the direct supervision of the Secretary of the Treasury or, at least, independent of the main entity -- i.e., Customs -- the activities and operations of which were to be investigated. That status changed with the 1927 reorganization and consolidation.

B. 1934 Treasury Department Coordination

The Department of the Treasury has been the site of multifunctional agencies besides the Customs Service. In such a case,

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26/ Millspaugh, op. cit., p. 67.

a multi-functional agency "will inevitably be attached to, rather than merged in, the department to which it is allocated," as Millspaugh phrases the quasi-independent nature of such entities. 27/

In 1934, the Secretary of the Treasury embarked on a concerted effort to improve the coordination among various internal Treasury bureaus, with a focus on the Coast Guard and its law enforcement activities, invariably intertwined with the Customs Bureau. Some time before, Customs harbor patrol boats and certain coastal vessels were transferred to the Coast Guard. Via an internal order, issued on March 9, 1934, the Secretary of the Treasury also instructed that:

> .... all flying activities under the jurisdiction of the Treasury Department be consolidated with and placed under the jurisdiction of the Coast Guard; and the Commissioner of Customs was directed to turn over to the Coast Guard all airplanes and aviation equipment operated by or in possession of the Bureau of Customs.... 28/

Other changes ensued, including the directive that the Coast Guard provide instruction in the use of small arms weapons to all Treasury Department personnel whose official duties included use of firearms (e.g., custom-house employees and Customs Border Patrol qualified).

Another 1934 attempt to improve intra-Departmental coordination and eliminate duplication included the determination that the Coast Guard would supervise "all activities of the Treasury Department

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27/ Ibid., p. 171. Emphasis in original.

28/ Ibid., pp. 171-172.

having to do with the prevention and detection of the smuggling of liquor and narcotics on the seacoast between ports of entry." 29/ Thus, the resources of the Customs Service, along with other appropriate Treasury units, would be under the direction of the Coast Guard Division Commanders in this pursuit. As directed by the Secretary, such Division Commanders were instructed to convene a conference of other Treasury unit officials to formulate programs of coordinated action, to prepare a progress report (with appropriate recommendations) for the Secretary, and to designate field coordinators in this area, usually a Coast Guard officer. 30/

C. 1937 Reorganization Studies

In 1937, Arthur Millspaugh of the Brookings Institution examined two areas of Federal law enforcement -- border patrols and alcohol and narcotics control -- that are subject presently to some of the same criticisms of that earlier era: overlap, duplication, inefficiency, ineffectiveness, and absence of coordination. 31/

1. Border Patrols: At the time of the 1937 analysis, border patrolling was the responsibility of three units: (1) Customs Patrol, under the direction of the Customs Agency Service of the Bureau of Customs/Treasury; (2) Coast Guard, then also a separate

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29/ Ibid., p. 172.

30/ Ibid., p. 173.

31/ Ibid., pp. 177-235.

bureau within Treasury; and (3) the Immigration Border Patrol of INS, then in the Labor Department. Millspaugh examined questions of duplication, overlap, and coordination among the agencies involved; organization and practices of the patrolling units; training, equipment, and personnel requirements; and previous attempts to consolidate border patrols.

One nearly-successful unification of these three border patrol units, under the Coast Guard jurisdiction, was advanced in 1930. The proposed unification, incorporated in H.R. 11204, was sanctioned by the Hoover Administration and the Treasury Department; reported by the House Committee on Interstate and Foreign Commerce (House Report 1828, 71st Congress, 2d session); and passed the House, although it failed to pass the Senate.32/ According to Millspaugh, the primary goal of the bill was to make "prohibition enforcement more effective,"33/ an intention that some legislators perceived as potentially open to abuse; and hearings conducted by the House Interstate and Foreign Commerce Committee reflected on the different and possibly incompatible missions of the agencies involved.34/ Then-Under Secretary of the Treasury Ogden L. Mills commented on this theme:

32/ House action on H.R. 11204 in Congressional Record, v. 72, July 1, 1930: 12217-12237. Two years later, on Dec. 9, 1932, President Hoover, under the reorganization authority of P.L. 72-212, approved June 30, 1932 (47 Stat. 413), proposed a similar unified border patrol under the Coast Guard to which would be transferred the Immigration Patrol/Labor and the Customs Patrol/Treasury. The required Executive Order, one of eleven affecting 58 Government agencies, had the stated purpose of being to "simplify the procedure in handling violations of the law and...(to) work toward a more effective enforcement." Congressional Record, v.76, Dec. 9, 1932: 251. A resolution of disapproval (H. Res. 334) was agreed to by the House on Jan. 19, 1933, following the recommendation of the Committee on Expenditures in the Executive Departments (House Report 1833, 72d Congress, 2d session), and, thereby, rejecting the multiple reorganizations proposed in the final months of the Hoover Administration. Congressional Record, v. 76, Jan. 19, 1933: 2110-2126.

33/ Millspaugh, op.cit., p. 194.

34/ U.S. Congress. House. Committee on Interstate and Foreign Commerce. Border Patrol. Hearings, 71st Congress, 2d session. April 24 and 25, 1930. Washington, U.S. Govt. Print. Off., 1930.

> The Coast Guard has other duties more important than the prevention of smuggling on our land borders....Patrolling our land borders is essentially a police function. The Coast Guard proper is a naval organization charged with the duty of protecting life at sea and enforcing on our ocean boundaries the laws of the United States. We do not propose to make policemen of our sailors. But we do want to avail ourselves of their central organization.35/

Millspaugh elaborated on this theme, adding that the training, equipping, service traditions, and personnel orientations of the Coast Guard were not analogous to other (Customs and INS) services' patrols.36/ Moreover, the location of the suspect criminal activity that each was charged with preventing differed. INS Border Patrol operated predominantly on land; the Coast Guard on coastal waters; and the Customs Patrol, in both areas.

Even consolidating the land patrols under either Customs or INS encountered difficulties for Millspaugh despite ending the "appearance of duplication."37/ Millspaugh contended that:

> Each patrol is a means to an end. Neither can act as an independent agency. Both are established for auxiliary law enforcement work. Co-ordination is of course necessary between them; but it is even more necessary that co-ordination should be achieved between the Customs Patrol and the other branches of the Customs Service and between the Immigration Border Patrol and other branches of the Immigration and Naturalization Service.38/

35/ Ibid., p. 5-6. Ogden L. Mills, in 1930, was Undersecretary in General Charge, Department of Treasury, and later (1932-33) became Secretary of the Treasury.

36/ Millspaugh, op. cit., p. 197.

37/ Ibid., p. 199. Emphasis added.

38/ Ibid., pp. 200-201.

Millspaugh continues: "It would seem that, inevitably, considerable damage would be done to the continuity and unity of operations within the Immigration Service..." and the Bureau of Customs in the event of border patrol consolidation.39/

For the same reasons, Millspaugh dismisses the proposal that border patrolling should be consolidated within the (Federal) Bureau of Investigation, "the general crime-control agency of the federal government."40/

2. Alcohol and Narcotics Control: The Bureau of Customs was charged in 1937 with cooperating in the enforcement of alcohol and narcotics importation restrictions, although the primary control functions were distributed to other units within Treasury: i.e., the Federal Alcohol Administration and the Alcohol Tax Unit of the Bureau of Internal Revenue and the Bureau of Narcotics. Yet Customs' already-established network of field operatives and organizational structure made it "an essential link in the chain of enforcement."41/ Millspaugh, however, emphasizes differences among enforcement in each area, the intimate involvement of State and local law enforcement in the control efforts in these areas of concurrent jurisdiction, the "morality" and societal aspects 42/ of attempting to control the illicit trafficking in each, and the international dimensions.

39/ Ibid., p. 201.

40/ Ibid., p. 201-202.

41/ Ibid., p. 218.

42/ Ibid., pp. 205-234.

The crucial factor is his perception that narcotics and alcohol abuse, the ultimate cause of the illicit trafficking, is a "vice, as distinguished from crime, [and] should not be put within the jurisdiction of a regular police department [the Bureau of Investigation]."43/ Again, his finding, as it relates to law enforcement reorganization, is favorable, for the most part, to maintaining the status quo.

D. 1949 Hoover Commission Study and Recommendations

The Commission on the Organization of the Executive Branch of the Government (1947-49), popularly referred to as the first Hoover Commission, released its reports and recommendations in 1949. A summary report identified the main theme of those reorganization recommendations: "...we must reorganize the Executive Branch to give it simplicity of structure, the unity of purpose, and the clear line of executive authority that was originally intended under the Constitution."44/

The Treasury Department, as one of the largest and most internally diversified departments within the Executive Branch, engendered a concluding report 45/ and preliminary task force study.46/ With regard to the Bureau

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43/ Ibid., p. 233

44/ U.S. Commission on the Executive Branch of the Government. General Management of the Executive Branch. Washington, U.S. Govt. Print. Off., 1949, p. viii.

45/ Ibid. Treasury Department: A Report to the Congress. Washington, U.S. Govt. Print. Off., 1949.

46/ Ibid. Task Force Report on Fiscal, Budgeting, and Accounting Activities [Appendix F]. Washington, U.S. Govt. Print. Off., 1949.

of Customs, the Task Force made two recommendations: (1) the merger of the Bureau of Internal Revenue and the Bureau of Customs into a single unit, with the objective that "(m)ore efficient and economical operation should result from the union of the two bureaus;"47/ and (2) the transfer of "marine activities recently assigned to the Bureau of Customs should go along with the Coast Guard,"48/ as two nonfiscal elements, to a proposed Department of Transportation. Those two recommendations were accepted with slight modification by a majority of the Hoover Commission and reflected in:

> Recommendation No. 2 b. Transferral of the United States Coast Guard, and probably certain of the marine functions of the Bureau of Customs, to the Department of Commerce.49/
>
> Recommendation No. 4. As part of a functional regrouping within Treasury, establishment of a consolidated revenue service, including the Bureau of Customs.50/

The recommendation of a consolidated revenue service was not accepted by Congreess.

The transferral of certain Customs marine activities was not effected at the time of the Hoover Commission recommendations (1949), but, interestingly, was nearly 20 years later. In 1967, some Customs marine activities were consolidated within the Treasury Department in the Coast Guard, which,

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47/ Ibid., p. 4.

48/ Ibid., p. 17.

49/ Ibid. Treasury Department: A Report of the Congress, p. 6. The Department of Commerce was to be the recipient rather than the proposed Department of Transportation as the Task Force advised.

50/ Ibid., p. 15.

in turn, was transferred to the newly-established Department of Transportation.51/

Originally, the "marine activities" noted in the Hoover Commission Task Force study referred to those acquired from the Commerce Department in 1946-47 by the Treasury Department and distributed to the Coast Guard and the Customs Bureau. The 1949 Hoover Commission Task Force prescient recommendation, even citing a proposed Transportation Department as the eventual recipient, included only those marine activities acquired from Commerce, not Customs' other (limited) marine activities directly associated with customs enforcement, which remain housed in the Customs Service.

E. 1965 Reorganization

Reorganization Plan No. 1 of 1965 (79 Stat. 1317) brought about an extensive internal reorganization of the Bureau of Customs and eliminated the positions of collectors and comptrollers of customs as Presidential appointments, transforming the new offices of district directors into Civil Service selections.52/ The Reorganization Plan was transmitted March 25, 1965, and became effective May 25, 1965.

51/ The Department of Transportation was established by an act of October 15, 1966 (80 Stat. 931) and became operational in April, 1967. During the interim, the Customs marine activities/Coast Guard transferral was effected.

52/ See U.S. Treasury Department. Customs Service. The Reorganization and After..., op. cit., for a detailed account of appropriate developments.

President Johnson, upon submission of the Plan to the Congress, emphasized the themes he had developed in his state of the Union message: "to 'reshape and reorganize' the executive branch... 'to meet more effectively the tasks of today' ... [to initiate] 'new economies.'"53/ The specific objectives included tightened management controls via a reorganization that would establish six regional and 25 district offices to supervise all Customs field activities, then conducted by "113 independent field officies, each reporting directly to Customs headquarters in Washington, D.C."54/ The abolition of the Presidentially-nominated and Senatorially-confirmed positions would produce an organization in which "all officials and employees of the Bureau of Customs will be appointed under civil service laws."55/

53/ President Lyndon Johnson. Reorganization Plan No. 1 of 1965: Message to the Congress. House Doc. no. 125, 89th Congress, 1st session. Washington, U.S. Govt. Print. Off., 1965.

54/ Ibid.

55/ Ibid.

When President Lyndon Johnson terminated the remaining "patronage" positions in Customs in 1965, he ended the Federal Government positions long identified with the "spoils system" and notorious for its abuses. Leonard D. White's authoritative treatment of this phenomenon describes the "politics of the Customs Service" in the early- to mid-1800s:

> There had been signs of party interference in the subordinate staffs of the customs houses in Baltimore, Philadelphia, and New York during the administration of John Quincy Adams.... The trend was accelerated when Jackson became President and within a decade the customhouse staffs became deeply involved in Whig and Democratic politics....(A)s the years went by the pressure for political appointments became nearly irresistible. The demand was greatest in the big cities, where the voting power of the new mass electorate was concentrated....The sinister consequences of the political character of the collectorship were pointedly revealed in private letters of William L. Marcy at the moment when Polk had to determine who would be collector in New York...56/

It was, in fact, William L. Marcy, who as U.S. Senator from New York in 1832 (later Secretary of War under President Polk and Secretary of State under President Pierce), coined the legendary phrase --"to the victor belong the spoils of the enemy"--as applied to Federal Government employment:

> It may be, sir, that the politicians are not so fastidious as some gentlemen are, as to disclosing the principles on which they act. They boldly preach what they practice. When they are contending for victory, they avow their intention

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56/ Leonard D. White. The Jacksonians: A Study in Administrative History, 1829-1861. New York, The Macmillan Co., 1954, pp. 174-176.

> of enjoying the fruits of it. If they are defeated, they expect to retire from office. If they are successful, they claim, as a matter of right, the advantages of success. They see nothing wrong in the rule, that to the victor belong the spoils of the enemy.57/

A final element in this reorganization affected the headquarters level, where the seven existing divisions were consolidated into four offices (investigation, administration, operations, and regulations and rulings). Moreover, a new position of special assistant to the Commissioner was established with responsibility for "insuring that all Customs employees conduct themselves in strict compliance with all applicable laws and regulations. Up to now this function has been one of a number lodged with an existing division."58/

F. 1968 Bureau of the Budget Report

In May of 1968, the Bureau of the Budget (BOB) released an interagency report on inspections at ports of entry, the shared jurisdiction of five principal agencies: Customs/Treasury, Immigration and Naturalization Service/Justice, Plant Quarantine Division/Agriculture, Animal Health Division/Agriculture, and Public Health Service/Health, Education and Welfare (HEW).59/

57/ Register of Debates, 22d Congress, 1st session. Jan. 24, 1832. p. 1325.

58/ President Lyndon Johnson, op. cit.

59/ Executive Office of the President. Bureau of the Budget. Interagency Report on Inspection at Ports of Entry. [Washington. Executive Office of the President] 1968.

At one time, both the Immigration and Naturalization Service (INS) and the Public Health Service were located in the Treasury Department, along with Customs.[60]

The BOB report focused exclusively on passenger and baggage inspection activities, not cargo inspection or support activities. Within this narrow realm of activities, the interagency report concluded that "major changes were necessary,"[61] and listed more than forty specific recommendations, including those associated with improvement of interagency cooperation, strengthening of program coordination and direction, and consideration of a single agency inspection service.[62]

Those affecting the Customs Bureau and focusing on interagency cooperation included:

> Passengers and crew on cargo vessels with up to 12 passengers should be inspected by a minimum number of cross-designated inspectors designated to act for all four agencies.
>
> Yachts should be inspected by one inspector acting for all four agencies.

60/ Originally and before the establishment of HEW, the Public Health Service was charged with preventing the introduction of endemic diseases and with making physical examinations of aliens, performing these duties at seaports and ports of entry. INS, charged with immigrant inspection, was made a part of the Treasury Department in 1882; and in 1891, a Bureau of Immigration was established within the Department. In 1903 this Bureau and its functions were transferred to the Department of Commerce and Labor. When a separate Department of Labor was created in 1913, it retained immigration and naturalization duties, separating them between two appropriate bureaus. In 1933 the two bureaus were re-united as the Immigration and Naturalization Service by Executive Order 6166. INS was transferred to the Justice Department in 1940, where it remains.

61/ Executive Office of the President, op. cit., p. i.

62/ Ibid., pp. iii-v, for summary recommendations.

> Inspection agencies should extend the multiagency staffing concept used for primary inspection at land borders to the primary inspection phase of the one-stop system at airports and seaports.
>
> Inspection agencies should cooperate further in training, management information, and public information efforts.
>
> As an interim action pending completion of the testing of one-stop inspection, Immigration and Public Health should combine their inspections at all airports and seaports where feasible.[63]

With regard to expediting its own services, the Customs Bureau was advised to "facilitate pre-baggage inspection payment of duty and continue efforts to obtain flat rate duty legislation."[64]

Program coordination and direction elicited two summary recommendations:

> Administrative "managers" for multiagency activities should be established on the Mexican border on a shift or work area basis.
>
> Uniform hours of service for adjacent ports on each side of the border should be established everywhere possible.[65]

These were elaborated within the body of the report and related recommendations appeared elsewhere. For instance, the recommendation dealing with training of personnel advocated the establishment of a "nationally directed, cross-training program..."[66]

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[63] Ibid., p. iv.

[64] Ibid., p. v.

[65] Ibid.

[66] Ibid., p. 47.

The concept of a single agency with consolidated port-of-entry inspection jurisdiction and authority is explicated in the final section of the report, recalling previous similar suggestions from another BOB study: a 1948 BOB-directed task force concluded that new screening procedures "'would undoubtedly operate more satisfactorily under a single administrator ...achieving a unity of control or single administration of border inspectional personnel...[as] the next step--but a step for the future.'"67/ The 1968 BOB interagency study recommendation followed suit with the concluding proposal:

> At an appropriate future time, consider the feasibility of assigning the complete responsibility for the inspection of passengers and baggage to one of the four agencies now performing those activities.68/

G. 1973 General Accounting Office Report

In 1973 the General Accounting Office (GAO), evidently assuming the time was, in fact, appropriate, recommended that:

> the Director, Office of Management and Budget, in cooperation with the Attorney General and Secretaries of Health, Education and Welfare; Agriculture; and the Treasury implement single-agency management of port-of-entry inspections.69/

This recommendation resulted from the examination of the four agencies responsible for inspecting persons entering the United States--the Public Health Service/HEW, the Immigration and Naturalization Service/Justice,

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67/ Ibid., p. 55.

68/ Ibid., p. 56.

69/ U.S. General Accounting Office. A Single Agency Needed to Manage Port-of-entry Inspections--Particularly at U.S. Airports. Washington, May 30, 1973 (B-114898), p. 21.

the Bureau of Customs/Treasury, and the Animal and Plant Health Inspection Service/Agriculture. The recommendation of consolidation was based on the findings of inefficient use of scarce resources, fragmented approach to inspections, and increasing workload which aggrevated the problems of fragmention.70/ The anticipated benefits of a single-agency management system of inspection included:

--Development of a single inspection system.

--Uniform administrative policies and procedures.

--Improved scheduling, planning, and coordination.

--Elimination of duplication.

--Reductions in space and staff requirements and inspection time.71/

The Customs Bureau, along with the other affected agencies, responded with detailed comments, including recognition of its own independent study and a Treasury Department recommendation that a "single agency management system be adopted..."72/ The question that Customs had in its comments was the location of such a single-agency management system:

> The Bureau of Customs and the Treasury Department concur in the recommendation to implement Single Agency Management of primary port-of-entry inspections; however, the draft report does not indicate which agency should be made responsible for inspections under the single agency management concept. The President, on March 28, 1973, announced Reorganization Plan No. 2 of 1972 (sic), which proposes the designation of the Bureau of Customs as the Single Agency Manager of ports-of-entry inspections.73/

70/ Ibid.

71/ Ibid.

72/ Ibid., p. 27.

73/ Ibid., p. 26.

The Bureau of Customs offered three broad reasons in favor of designating Customs as the single agency manager of ports-of-entry inspections: (1) Customs provided the major manpower resources for ports-of-entry inspections; (2) the Customs Automated Data Processing Intelligence Network is superior to the Immigration Service counterpart in quickly identifying suspects at the primary inspection point; and (3) Customs had already conducted a study of recent associated problems and Treasury had recommended, to the Office of Management and Budget, a single agency management system "beginning with primary inspections at land border crossings; primary inspections of ferries arriving from contiguous countries; and inspections of all private yachts and private aircraft."[74]

H. 1973 Reorganization and Establishment of the Drug Enforcement Administration

Reorganization Plan No. 2 of 1973 (87 Stat. 1091), referred to by the Customs Bureau above, developed simultaneously with the General Accounting Office study. President Nixon submitted Reorganization Plan No. 2 on March 28, 1973, and it became effective on July 1, 1973, creating a Drug Enforcement Administration (DEA) within the Justice Department and including several major changes regarding the Customs Service. Among those, as described in the President's message to Congress, were:

> --DEA would perform anti-drug functions and would absorb the associated manpower and budgets of those functions of the Bureau of Customs pertaining to drug investigation and intelligence (to be transferred from the Treasury Department to the Attorney General);

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[74] Ibid., p. 27.

> --The major responsibilities of DEA would include development of overall Federal drug law enforcement strategy, programs, planning and evaluation; full investigation and preparation for prosecution of suspects connected with illicit drugs seized at U.S. ports-of-entry and international borders; and, among others, conduct of all relations with drug law enforcement officials of foreign governments, under the policy guidance of the Cabinet Committee on International Narcotics Control...75/

The basic rationale of the reorganization plan in creating a consolidated drug enforcement administration within the Justice Department was to provide a unified command, erasing the "distinct handicap...of a loosely confederated alliance... in half a dozen...fragmented forces," including the Bureau of Customs.76/ One of the immediate and principal objectives was to improve port-of-entry inspections and thus curtail illegal importation of narcotics.

The Bureau of Customs, therefore, was the projected recipient of additional authority and resources to counter illicit drug trafficking through this channel. Section 2 of Reorganization Plan No. 2 of 1973, which would have transferred appropriate functions to the Secretary of the Treasury, is elaborated in the President's message as follows:

> ...the reorganization plan which I am proposing today would transfer to the Secretary of the Treasury all functions currently vested in Justice Department officials to inspect persons, or the documents of persons.
>
> When the plan takes effect, it is my intention to direct the Secretary of the Treasury to use the resources

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75/ President Richard Nixon. Reorganization Plan No. 2 of 1973 (re a Drug Enforcement Administration): Message to the Congress. House Doc. No. 93-69. 93d Congress, 1st session, 1973.

76/ Ibid.

> so transferred--including some 1,000 employees of the Immigration and Naturalization Service--to augment the staff and budget of the Bureau of Customs. The Bureau's primary responsibilities would then include:
>
> --inspection of all persons and goods entering the United States;
> --valuation of goods being imported, and assessment of appropriate tariff duties;
> --interception of contraband being smuggled into the United States;
> --enforcement of U.S. laws governing the international movement of goods, except the investigation of contraband drugs and narcotics; and
> --turning over the investigation responsibility for all drug law enforcement cases to the Department of Justice.
>
> The reorganization would thus group most port-of-entry inspection functions in a single Cabinet department. It would reduce the need for much day-to-day interdepartmental coordination, allow more efficient staffing at some field locations, and remove the basis for damaging inter-agency rivalries. It would also give the Secretary of the Treasury the authority and flexibility to meet changing requirements in inspecting the international flow of people and goods. An important by-product of the change would be more convenient service for travellers entering and leaving the country.
>
> For these reasons, I am convinced that inspection activities at U.S. ports-of-entry can more effectively support our drug law enforcement efforts if concentrated in a single agency. The processing of persons at ports-of-entry is too closely interrelated with the inspection of goods to remain organizationally separated from it any longer. Both types of inspections have numerous objectives besides drug law enforcement, so it is logical to vest them in the Treasury Department, which has long had the principal responsibility for port-of-entry inspection of goods, including goods being transported in connection with persons. As long as the inspections are conducted with full awareness of related drug concerns, it is neither necessary nor desirable that they be made a responsibility of the primary drug enforcement organization.77/

However, Section 2 and the consolidations into Customs met with strong opposition in Congress. Although Reorganization Plan No. 2 of 1973 was approved by Congress, it was accepted by the House with the understanding that

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77/ Ibid.

the second part would be repealed by separate legislation.78/ Subsequently, section 2 was repealed by Public Law 93-253 (88 Stat. 50), approved March 16, 1974. That opposition focused on the perceived adverse affects of the consolidation on the Immigration and Naturalization Service.

A later House Government Operations Committee study summarized these concerns, other weaknesses of the Reorganization Plan, and, given the retention of Section 1 (but not Section 2), the consequences for Customs drug law enforcement:

> ...The OMB had proposed a partial arrangement of this nature in section 2 of Reorganization Plan No. 2 of 1973. That part sought the integration of inspection activities, concerning both goods and people, at ports-of-entry, and would have involved the transfer of approximately 900 agents from INS to the Customs Service.
>
> When Reorganization Plan No. 2 of 1973 was before the subcommittee and full committee for consideration, there was considerable opposition to section 2 by union representatives of the INS employees. Their concern, shared by many Members of Congress, was that removal of so large a complement of INS employees would adversely affect morale and make even more difficult the efforts of that under-staffed agency to cope with illegal alien traffic....
>
> The problem started with Reorganization Plan No. 2 of 1973. In many ways it was ill-starred. A majority of the committee, in reporting on the plan, observed that it was hastily formed, without adequate preparation. The employee organizations involved were not fully consulted; and in consequence, awkward arrangements had to be made for concessions and compromises after the plan was submitted, including the enactment of legislation to repeal an important part of the plan....
>
> In this respect, the Customs Service suffered rather heavily. Under section 1 of the plan, it lost to the Department of Justice, for delegation to the DEA, its intelligence and investigative functions relating to the suppression of illicit traffic in narcotics, dangerous drugs, or marihuana. Along with this transfer of functions went 509 customs agents, about 200 support personnel, and an assortment of equipment, including aircraft, helicopters, boats, office furniture and supplies, vehicles, firearms, tape recorders, radios, cameras, and binoculars.

78/ See Congressional Record (daily ed.), June 7, 1973. pp. H4435, H4457.

The transfer of drug intelligence and investigative functions to DEA was a heavy blow to Customs, particularly because of the public prominence and congressional support given to drug abuse control efforts; but the transfer did not mean that Customs thereafter would be completely out of the drug law enforcement business.[79]

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[79] U.S. Congress. House. Committee on Government Operations. Law Enforcement on the Southwest Border (Problems of Coordination between Immigration and Naturalization Service and Customs Service); Report. Washington, U.S. Govt. Print. Off., 1974. (93d Congress, 2d Session. House. Report No. 93-1630). pp. 4 and 19-20.

I. 1974 House Government Operations Committee Study

The U.S. Customs Service and its relationship with the Immigration and Naturalization Service were the immediate interests of a 1974 report from the House Committee on Government Operations, based on hearings conducted by the Subcommittee on Legislation and Military Operations.80/ The impetus of the congressional examination was Customs' reactivation of the border patrol force along the Mexican border:

> In regrouping its forces after the loss of investigative personnel caused by the reorganization plan, the Customs Service decided to deploy a uniformed force of customs patrol officers (CPO's) along the Mexican border. The rationale for this deployment as explained to an Appropriations subcommittee in November 1973, was to shore up depleted resources for interdicting contraband (including drugs).
>
> During several periods in the past, the Customs Service had a uniformed patrol force along the Mexican border but had discontinued it in 1948. Its reappearance in 1973 caused much consternation and concern in the area. There were reports of controversy and friction between customs patrol officers and other Federal, State, and local law enforcement agencies. Several Members of Congress requested the Office of Management and Budget (OMB) to study and assess the situation in the interest of eliminating unnecessary duplication and effecting better coordination.81/

The OMB analysis, requested by Congress, proceeded for six months. OMB concluded that a "'long-term solution is needed to resolve the problems of enforcement duplication and competition along the Mexican border... [and OMB proposed] the single-agency...management strategy...'"82/

80/ Ibid.

81/ Ibid., p. 2.

82/ Ibid., p. 3.

As an interim solution, however, Customs would be given "lead agency" duties with regard to border air interdiction and routine air enforcement and would "'implement a test of single-agency management of Mexican border ports.'"83/ However, the Immigration and Naturalization Service was contemplated as the "'single agency for routine patrol of the land border between ports'" 84/ with Customs confined to the aforementioned jurisdictions as "lead agency" or only as a "test" of single-agency mangement.

Opposition to the OMB plan arose, focusing upon the legality and propriety of a test program, in light of the legislative repeal of section 2 of the 1973 Reorganization Plan and other existing shared functions and responsibilities of the several agencies. As indicated by the Government Operations Committee:

> Although the Congress, in effecting the partial repeal, was more concerned with preventing the transfer of 900 persons from INS to Customs than with the efficacy of single management of inspection activities at ports of entry, nevertheless the OMB plan did not seem to comport with the spirit of the repeal action.85/

A series of differences — over OMB's legal authority to erect such a test case in light of repeal of Section 2, the President's role, and the transfer of functions — were reviewed in the Government Operations report.

83/ Ibid., p. 4.

84/ Ibid.

85/ Ibid., p. 5-6.

Among the various concerns were the following critical ones for Customs, interagency relations, and relevant reorganizations:

> --The question of legal authority for the OMB plan finally hinges on whether or not it involves a transfer of functions from one department or agency to another, or an abolition of functions of an agency. It is generally understood that neither the President nor the OMB, nor departments individually or in concert, could order such action administratively. Action by Congress would be required....
>
> --The Comptroller General...wrestled with the question of "transfer of functions" and was unable to make a clear-cut finding because of the tangled legal and factual issues involved....
>
> --The Comptroller General was troubled also by that aspect of the "single agency" assignment to the INS border patrol which entailed, under the OMB plan, reliance upon the cross-designation of border patrolmen as customs officers....
>
> --In the Comptroller General's view, however, the exercise of Customs' authority by INS agents must be considered as limited to actions incident to their own primary mission of dealing with illegal alien traffic....
>
> --The Comptroller General also thought that cross-designation of INS agents as customs officers "necessarily requires that Customs retain some responsibility for, and control of, their activities"....
>
> --The Committee is inclined to agree...that the OMB plan "presents a strong potential that it is a transfer of functions beyond the permissible scope of administrative action," and that the cross-designation authority was a questionable basis for accomplishment of the OMB plan....
>
> --The Customs Service recognizes that it has extraordinary powers of border search and seizure, and it is particularly sensitive to the use of such authority by officers of other agencies who may not be sufficiently trained or versed in Customs' practices and traditions.... [Where cross-designation does occur] the standard form

> now used by Customs Service... carries the legend: "In performing the duties of a customs officer, you will be subject to all guidelines, directives and instructions of the U.S. Customs Service." 86/

The Government Operations Committee concluded that Customs "major initiative" in redeploying uniform personnel along the Mexican border was done "without the full knowledge, understanding, and approval of the Office of Management and Budget;" that the OMB plan of a "test program" of single-agency management of designated inspection functions "was not well-advised;" and that "in view of the controversies and ill feelings that have been engendered by the OMB plan...a sounder basis for agreement is required between the participating agencies." 87/

Seven major recommendations ensued:

(1) that OMB withdraw its plan to reassign responsibilities between Customs and INS;

(2) that the President direct the Secretary of the Treasury and Attorney General to draw up a mutually acceptable plan for coordinated conduct of their operations at and between border ports of entry, recognizing, among other items, other Federal agency responsibilities, their own statutory responsibilities, and that single centers of responsibility should be established to the greatest practicable extent;

(3) that employee organizations in the affected Services be consulted and afforded opportunities to comment;

(4) that unjustified disparities between the two Services in terms of job classification, compensation, and perquisites and privileges of persons performing essentially similar duties be eliminated;

86/ Ibid., pp. 14-16.

87/ Ibid., pp. 28-29.

(5) that Congress and its interested committees be consulted and kept fully informed of the arrangements prior to their implementation; if transfers of functions, or consolidation of agencies are desired, legislation is required;

(6) that the President and the Congress give favorable consideration to Justice's pending request for the increase in INS personnel; and

(7) that the Judiciary Committee consider developing legislation to require annual or other periodic authorizations for the programs of INS. [88]

J. 1977 General Accounting Office Report on Defense/Civilian Cooperation in Law Enforcement

In 1977, the General Accounting Office (GAO) released its report on coordination of civil and defense agencies involved in search/rescue and coastal law enforcement. [89] Customs is only peripherally involved in this report, which concentrates on the efforts of the Coast Guard and relevant military units.

Nonetheless, one section has significance for Customs and law enforcement: i.e., military assistance to civil law enforcement agencies. [90] The Posse Comitatus Act (18 U.S.C. 1385) has been presented as a limiting factor in the use of military personnel and equipment by Federal law enforcement agencies and considerable uncertainty exists concerning the amount of assistance the military can provide. The Act states:

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[88] Ibid., pp. 29-30.

[89] U.S. General Accounting Office. If Defense and Civil Agencies Work More Closely Together, More Efficient Search/Rescue and Coastal Law Enforcement Could Follow. Washington. 1977. (LCD-76-456, May 26, 1977).

[90] Ibid., p. 47.

> Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined not more than $10,000 or imprisoned not more than two years, or both. 91/

Although direct enforcement of the laws would appear to be clearly prohibited to the military, certain support activiites and types of assistance to civilian law enforcement organizations are often legally obscure under the Posse Comitatus Act. GAO cited the legal uncertainty involved in a case in which an Air Force pilot, in an Air Force plane, would transport a Customs' agent on a contraband patrol or interdiction mission. 92/

GAO concluded that opportunities for increased cooperation among various civil agencies of the Federal Government exist and that the "military services have assets that we believe could be made available to civil agencies on a loan basis." 93/ The report then recommended that:

> Congress enact legislation expressly authorizing the Secretary of Defense to loan available personnel and equipment to Federal civil law enforcement agencies for the purpose of transporting them on law enforcement missions. 94/

91/ Although the Act only expressly identifies the Army and Air Force, the Navy and Marine Corps closely follow it. Ibid.

92/ Ibid., p. 48.

93/ Ibid., p. 50.

94/ Ibid., p. 52.

K. 1977 Office of Drug Abuse Policy Review

On September 7, 1977, the Office of Drug Abuse Policy (ODAP) in the Executive Office of the President released a study on border management and interdiction. 95/ The study, conducted by an interagency review team under the direction of ODAP, emphasized two principal functions of border control: inspection of persons and goods at ports of entry and patrolling between ports to prevent surreptitious entry.96/ In turn, two major issues were identified: "overall lack of coordinated border management, and the overlap and duplication of effort in the principal border control functions."97/

The U.S. Customs Service and Immigration and Naturalization Service (INS) were, necessarily, the main foci of the study, although other agencies were involved and included: Public Health Service, Animal and Plant Health Inspection Service, Drug Enforcement Administration, U.S. Coast Guard, and Fish and Wildlife Service, each of which was able to append comments to the report. By way of summary, seven independent agencies, representing six Federal Departments, participate in border management, control, and law enforcement.

The basic issues of border management and overlap and duplication were examined and related problems identified: duplication of

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95/ Executive Office of the President. Office of Drug Abuse Policy. Border Management and Interdiction -- An Interagency Review. [Washington] 1977.

96/ Ibid., p. ii.

97/ Ibid.

effort, lack of cooperation and coordination, inadequacy of border management resources, and inadequacy of intelligence, among others.[98] Although the perceived issues and associated problems are not novel with this study, the ODAP report did provide an unusual service: development of a series of four options, ranging from maintenance of the status quo to creation of an expanded multi-purpose border agency, composed of INS, Customs, and Coast Guard.[99] The advantages and disadvantages of each were provided, as determined by the analysts.

The review team concluded that major reorganizations are required, as the "current organizational structure was determined to be the underlying cause of the majority of current operational problems."[100] In consequence, the team recommended that "a multi-purpose border management agency should be created by consolidating INS and Customs in a new agency,"[101] thus, leaving Coast Guard independent of the structure but not precluding its assumption into the same department. The merger of the two units emphasized that this would be a new agency, rather than the incorporation of one into the other.

However, one of the difficult questions associated with the ODAP proposal was not answered: which current "parent" Department, Justice or

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[98] Ibid., p. 37.

[99] Ibid., pp. 46-59.

[100] Ibid., p. 58.

[101] Ibid., p. 59.

Treasury, would inherit the new agency? The ODAP report, cognizant of the question, suggested that the principal considerations of such a determination should be "the size and nature of the border presence, the relative strength of each agency's ties to its current department, the relative contribution to control over entry and the potential impact on the revenue function."102/

The Customs Service, along with the other affected units, responded to the ODAP report. Customs "favor(ed) the approach in option three [Customs/INS consolidation] as we believe it could be implemented within a relatively short timeframe, with a minimum of opposition and organizational disruption ....[and] concur(red) with the study team's criteria for the selection of the cabinet level department to host the new agency."103/ Furthermore...

> In our view, the Department of Treasury most nearly meets these criteria and that, further, in Customs, Treasury has a multipurpose agency that already manages and meets the enforcement requirements of a number of other federal agencies. Border law enforcement is inextricably tied to collection of revenue ($5 billion in 1976). The problems and administrative structures associated with this inter-mixture have been dealt with in Treasury for many years, not only in Customs but in the Internal Revenue Service and the Bureau of Alcohol, Tobacco and Firearms. We, therefore, suggest that Treasury is the most appropriate department to assume these functions.104/

102/ Ibid., p. 53.

103/ Ibid., Appendix 0-1.

104/ Ibid., Appendix 0-2.

L. 1977 President's Reorganization Project Draft Report

Overlapping with the ODAP report was another 1977 report prepared by a unit in the Executive Office of the President: the President's Reorganization Project (PRP) draft report on reorganization options related to border management.105/ It must be remembered that, as of this writing, the PRP report is a draft and not an official release. Nonetheless, it provides some important material regarding the U.S. Customs Service and prospective reorganizations that should be considered.

The corporate authorship — i.e., the President's Reorganization Project — requires explanation. Upon assuming the Office of President, Jimmy Carter emphasized Executive Branch reorganization efforts would be a high priority and Federal law enforcement was designated as a prime candidate for comprehensive review and study. President Carter's memorandum of June 29, 1977, addressed the problems and major objectives as follows:

> Today there is considerable jurisdictional ambiguity, overlap, and possible duplication among Federal organizations performing police or investigative activities. There are at least 75 different Federal agencies and 164,000 [sic] Federal employees involved in police or investigative work. Our goal is to make these functions more responsive to both individual rights and Federal law enforcement priorities. This effort will help us determine how best to structure these agencies to do so.

105/ U.S. Executive Office of the President. Office of Management and Budget. President's Reorganization Project. Reorganization Options Related to Border Management (draft report). Washington, Dec. 14, 1977. As of this writing, the draft report and subsequent recommendations are circulating for comment among executive agencies and the report remains a draft and not an official release.

> A major objective will be to re-examine the Federal role in law enforcement in light of the responsibilities and capabilities of State and local agencies. The Federal Government ought not to duplicate or overlap State and local enforcement functions unnecessarily.106/

Subsequently, a PRP Law Enforcement Study Team was established, composed of Office of Management and Budget and Justice Department personnel, for the most part, assisted by aides from various agencies possessing a law enforcement capability. An overall survey conducted by the PRP team revealed the extensiveness of Federal law enforcement efforts: 112 units among more than 30 departments and agencies, with an estimated 200,000 personnel and a combined annual budget of $4.2 billion in fiscal year 1977.107/

It is out of this comprehensive examination, apparently the first of such magnitude undertaken by the Executive in the area of law enforcement,108/ that the draft report on border management emerged. The fact that the first PRP law enforcement report, although still a draft, is on border management reorganization suggests a high or, at least, immediate priority for this jurisdictional area.

106/ 42 Federal Register 33911 (1977).

107/ For the review of these PRP efforts, since no official report has yet been released, see U.S. Library of Congress. Congressional Research Service. Law Enforcement Reorganization at the Federal Level. Issue brief 77094 (by) Frederick Kaiser (updated continuously).

108/ It should be recalled that the earlier Hoover Commission report of 1949, identified above, examined functional organization of the Executive but did not include law enforcement as a functional concept. The only other approximation to this effort is Arthur Millspaugh's 1937 Brookings study, identified above.

The PRP report listed five basic tentative findings:

(1) U.S. borders are under increasing pressure from a flow of illegal narcotics and drugs, undocumented aliens, and contraband....

(2) Serious problems of overlap, duplication of effort, and lack of coordination exist between the two principal agencies involved at the land borders, Customs and INS. These problems significantly hamper effective border control....

(3) In concentrating on its border enforcement responsibilities to prevent illegal entries, INS has been unable to devote sufficient resources to its important nonborder administrative law function....

(4) Any effort to make land border enforcement effective without enforcement of the air and sea borders simply invites an increase of smuggling by air and sea.... An air and marine interdiction capability is an important factor in any overall border management concept. At present this capability appears insufficient, with Customs attempting to obtain the resources to carry out effective border interdiction at sea and in the air. The U.S. Coast Guard, as the civilian maritime agency with general law enforcement responsibility, is empowered both with the legal authority and operating capabilities to assume a preeminent enforcement role in the waters and related air space adjacent to our borders....

(5) There is substantial duplication and inconsistency in the visa application and approval activities of the State Department and the INS border admission process.[109]

Based on these findings, four questions were raised which, in turn, provided the organization of the draft report:

(1) What organzational arrangement is most appropriate for border management activities?

(2) If a border Management Agency is established, what departmental location is most suitable--Treasury or Justice?

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[109] U.S. Executive Office of the President. Office of Management and Budget. President's Reorganization Project, op. cit., pp. 4-7.

(3) What actions should be taken to ensure that border management is supported by necessary air and marine interdiction capabilities?

(4) What actions should be taken to ensure that the visa issuance and border admission functions are consistently and effectively carried out?110/

Following a discussion of each of these four organizational issues, the PRP report developed several alternative solutions and brief outlines of their apparent advantages and disadvantages. Except for question (4), which pertains to the State Department and INS exclusively, the questions affect the U.S. Customs Service and should be highlighted.

(1) The appropriate organizational arrangement — single, consolidated or dispersed among several units — is considered in light of the ODAP recommendation favoring a single agency and a 1977 General Accounting Office (GAO) report, "Illegal Entry at the United States-Mexican Border--Multi-Agency Enforcement Efforts Have Not Been Effective in Stemming the Flow of Drugs and People," manifesting similar findings.111/

The first alternative in this area simply advances additional resources for the existing agencies and does not advocate reorganization. Althernative 2 proposes to "combine and unify the patrol functions of Customs and INS in one department (Justice or Treasury); and the inspection functions of Customs and INS in the other Department (Treasury or

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110/ Ibid., pp. 7-8.

111/ Ibid., p. 11. This GAO report is reviewed below.

Justice)."112/ Alternative 3 establishes a Border Management Agency in Treasury or Justice, containing Customs and INS patrol functions and the inspection functions of both into one unit, along with the remaining functions and support activities of the agency already within the Department. The remaining agency, no longer possessing inspection or patrol responsibilities, would retain its organizational identity in its present department.113/ A fourth alternative would combine the entirety of Customs and INS in a Border Management Agency in either Justice or Treasury.114/

(2) Issue two examines which department, Justice (Alternative 1) or Treasury (Alternative 2), would be the most appropriate location of any propective border management agency. Both Departments, according to the report, contend they have sufficient personnel, organizational framework, and management capability to assume any additional border enforcement responsibilities.115/ The PRP report noted that:

> The Treasury Department [Customs] devotes approximately three times more resources to inspection than the Department of Justice. The Treasury inspection function involves the inspection of all persons without regard to citizenship and applies also to general merchandise and carriers at the point of entry.116/

112/ Ibid., p. 13.

113/ Ibid., p. 15.

114/ Ibid., p. 17.

115/ Ibid., p. 19.

116/ Ibid., p. 20.

(3) Issue three examines the possibility of ensuring that border management is supported by necessary air and marine interdiction capabilities, largely the prospective responsibility of the Coast Guard as the only civilian law enforcement agency. The PRP report notes, however, that "in recent years, the Coast Guard has gradually deemphasized its law enforcement role..."117/

Alternative 1 advances the concept of increasing the resources of Customs or a new Border Management Agency, rather than changing the present Coast Guard structure or emphasis. Althernative 2 would redefine the Coast Guard primary occupational role to provide a high priority for close support to Customs or a Border Management Agency, but leave the Coast Guard within the Department of Transportation. Alternative 3 would transfer the Coast Guard intact to the same cabinet department in which a prospective Border Management Agency would be located.118/

The PRP draft report on border management does not advocate a particular alternative in any of the areas but serves as an organizing analysis of the basic issues and options confronting the Federal Government.

M. 1977 General Accounting Office Report on Illegal Entry at the U.S. -Mexican Border

The final 1977 report affecting the U.S. Customs Service and possible reorganizations is one prepared by the General Accounting Office (GAO) on

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117/ Ibid., p. 25.

118/ Ibid., pp. 27-30.

illegal entry at the U.S.-Mexican border.119/ The principal agencies—Customs Service, Immigration and Naturalization Service (INS), and Drug Enforcement Administration (DEA)— are supplemented, in terms of interest in controlling illicit drug trafficking and illegal aliens, by the Federal Bureau of Investigation (FBI); Bureau of Alcohol, Tobacco and Firearms; Department of Defense entities; Federal Aviation Administration; U.S. Coast Guard; Department of Agriculture units; and Public Health Service.120/

The basic finding of GAO is that the substantial influx of illegal aliens and illicit drugs continues, in large part becasue the responsible Federal agencies operate almost independently "with limited consideration for the activity of the others. This produces separate but similar lines of effort that dilute border coverage and control, with little consideration given to overall border security."121/ The report continues:

> Since the Federal Government has not developed an integrated strategy or an overall border control plan to determine what it intends to accomplish with its various agency law enforcement resources:
>
> --Costly overlapping and poorly coordinated enforcement continues to exist....
>
> --Border forces do not intercept significant quanties of heroin and cocaine. The Customs Service and the Immigration and Naturalization Service seize only about 2 percent of the heroin estimated to come from Mexico....

119/ U.S. General Accounting Office. Illegal Entry at United States-Mexican Border--Multi-agency Enforcement Efforts Have Not Been Effective in Stemming the Flow of Drugs and People. Washington, 1977. (GGD-78-17, Dec. 2, 1977)

120/ Ibid., p. 1.

121/ Ibid.

> --Too little is known about how most drugs enter the country to make decisions on how to respond. Available intelligence suggests that heroin, cocaine, and dangerous drugs are being smuggled through the ports-of-entry. However, inspector staff-power at major United States-Mexico ports has remained about the same or decreased, while patrol forces away from the ports have increased.... 122/

The extensive GAO report examines a number of factors, including budget and fund allocation of the principal agencies, modes of interception and interdiction, intelligence capabilities and cooperation, and problems and issues associated with port-of-entry vis-a-vis non-port-of-entry detection, inspection, and investigation. Highlighted among improvements is the El Paso Intelligence Center (EPIC), originally staffed by only DEA and INS personnel, but more recently "other Federal agencies have begun to support EPIC...Customs, AFT, Coast Guard, and FAA, with increased DEA and INS commitment."123/ EPIC, however, is a modest, single instance of improving intelligence and interagency cooperative efforts. Moreover, Customs, unlike the other affected agencies, was "critical of EPIC because it feels that to a great extent EPIC duplicates the Treasury Enforcement Communication Systems (TECS), and TECS fulfills Customs' needs."124/

Operations and attendant problems appear dependent upon a number of factors, including jurisdiction--i.e., port-of-entry or other territorial location—and mode of detection—i.e., land patrols, air surveillance, and

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122/ Ibid., p. ii.

123/ Ibid., p. 20.

124/ Ibid., p. 21.

marine search—and the agency and history of cooperative activities. In terms of joint agency cooperation, GAO noted a 1975 Domestic Council "White Paper on Drug Abuse" which recommended improved coordination among the pricipal agencies and establishment of joint task forces. This admonition, however, according to the succeeding GAO report, resulted in only three intensified interdiction operations along the U.S.-Mexican border in the interim and there "was nominal or no coordination among the enforcement agencies."125/

GAO recommended an "integrated strategy and comprehensive operational plan for border control...[to be developed by] OMB, ODAP, together with the Attorney General, Secretary of the Treasury, and other Department Heads having responsibility for border law enforcement."126/ GAO also noted that further congressional oversight and guidance was necessary because of the competing interests and needs of the agencies: separate statutory responsibilities, establishing authority, and missions; competition for limited resources; and involvement in complex, long-term national problems of drug abuse and illegal immigration.127/

The Treasury Department (U.S. Customs Service) comments on the GAO report indicated consensus with the basic findings of limited inter-agency coordination and absence of an integrated strategy or overall border control

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125/ Ibid., pp. 46-47.

126/ Ibid., pp. 51-52.

127/ Ibid., pp. 46-47.

plan.128/ The comments also referred to the then-developing ODAP study, noted above, as a source of possible recommendations for improvements, and a U.S.-Mexican agreement affecting customs services between the two nations, across the range of responsibilities to suppress the smuggling of contraband.129/ Another concern is implicit in the Treasury Department comments questioning certain GAO measures of effectiveness of Customs law enforcement: the limited heroin seizures via Customs Service Air program. Such measurements or indicators of effectiveness might be misleading or incomplete, according to Treasury's comments, in that they measure only partial aspects of a program designed to meet numerous objectives with heroin interdiction only one part of a more comprehensive anti-smuggling/customs inspection operation.130/

N. Summary

This section on major actual and proposed reorganizations affecting the Customs Service during the 1927-77 fifty-year period has discussed numerous appropriate examples, produced by Executive Branch units, interagency task forces, governmental commissions, congressional committees, the General Accounting Office, and individual observers. Some of the resulting recommendations were initially dismissed but belatedly accepted, as with a 1949 Hoover Commission recommendation; some were rejected or

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128/ Ibid., p. 71.

129/ Ibid.

130/ Ibid., p. 72.

seriously modified by subsequent congressional action, as witnessed by the aftermath of the President's Reorganization Plan No. 2 of 1973; and the remainder have yet to be acted upon, as in the case of the several 1977 studies.

Moreover, the scope of the recommendations vary dramatically, from relatively modest suggestions of increased inter-agency cooperation, involving Customs, to more comprehensive realignments and transferrals among agencies and departments, including creation of a new Border Management Agency. Along this same line, certain reorganization alternatives include some innovative, although possibly questionable, approaches, such as the OMB recommendation to establish "test" single-agency management systems and cross-designation of personnel, cited in the 1974 House Government Operations Committee report.

Depending upon the comprehensiveness and scope of the propsoals, the mechanism for effecting each would differ. The more modest, intra-Customs and intra-Treasury Department developments would rely on internal departmental directives, while the more broadly emcompassing ones would require statutory authorization or, in the least, submission of a Presidential reorganization plan to the Congress. There remains a gray area associated with certain types of reorganization among agencies from different Cabinet Departments. The authority of the President and OMB to transfer functional responsibility among such units, as noted in the 1974 House Government Operations Committee review of OMB action affecting Customs and INS, is subject to different interpretations.

Because of the Customs Service involvement in a number of distinct law enforcement areas, through its own broad duties and resources in the area of customs duties collection and anti-smuggling efforts, the Service is apparently a frequent candidate for reorganization, especially restructurings advancing increased inter-agency cooperation. It is evident from the trend in the various reorganization studies and recommendations that the recent focus has been on illicit drug trafficking and its curtailment, one of numerous Customs Service concerns and one shared by a number of other Federal agencies. The contemporary interest in this particular area as well as that of illegal immigration evokes a sense of deja vu, since these are the two prominent crime control reorganization proposals that Arthur Millspaugh's 1937 examination considered.131/

Finally, the present emphases of the proposals are to merge or transfer certain agencies or their units, especially Customs and INS, and to improve cooperation among illicit drug enforcement and illegal-immigration enforcement units, activities now dispersed among a number of agencies in several Cabinet Departments. At one time, the principal agencies (or their predecessors) were located in the Treasury Department and/or were affiliated with Customs: Bureau of Immigration, Coast Guard, and Public Health Service date their establishment within the Treasury Department and Customs had original supervision over the Revenue Cutter Service, the forerunner of the Coast Guard. The units themselves, however, later adopted additional

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131/ Millspaugh, op. cit., pp. 177-235.

duties and auxiliary functions, defined in their own separate missions, as the Federal Government incurred new responsibilities. The result is an organizational structure that has grown "like Topsy,' that is without plan or design," according to Millspaugh,132/ with dispersed and fragmented jurisdiction. Nonetheless, Customs and other multi-functional agencies have indicated in their comments to the several reorganization studies that reorganizations that affect (and improve) one area of responsibility --e.g., border management, illicit drug trafficking--might jeopardize adequate enforcement in other areas that remain under their jurisdiction. Moreover, as the experience surrounding the 1973 Reorganization Plan and establishment of DEA reveals, the total costs and effects of reorganizations must be adequately considered in advance to avoid counter-productive developments, later corrective legislation, or diminution of remaining agency duties.

132/ Ibid., p. 60 .

III. Budget and Personnel, 1945-1977

The following chart provides data for the U.S. Customs Service budget and personnel from 1945 through 1977. 1945-1975 statistics are in five year intervals and 1977 statistics, the most recent year for which actual (rather than estimated) data are available, is appended.

U.S. Customs Service Budget and Personnel, 1945-1977 133/

Fiscal Year	Budget Authority ($)	Personnel 134/
1977	359,190,000	14,682 (13,826)
1975	292,400,000	14,268 (13,438)
1970	128,536,000	10,558
1965	78,821,000	8,221
1960	54,245,000	7,313
1955	42,628,030	7,982
1950	35,705,000	8,308
1945	26,350,000	9,327

133/ Source of the statistics is the Budget of the United States Government (and Appendix). Washington, D.C., U.S. Govt. Print. Off. The actual statistics for the appropriate fiscal year are provided in the budget two years after the desired year. Thus, fiscal year 1945 actual budget and personnel statistics are found in the FY 1947 Budget.

134/ Personnel statistics reflect the number of total permanent positions assigned to the U.S. Customs Service, including those under direct program authority and the reimbuseable program authority. The former provides the overwhelming number of permanent positions, as indicated for FY 1977 and FY 1975 for which statistics are available. (These figures are included in parenthesis for those fiscal years.

According to these statistics, the fifteen-year period from 1945 through 1960 witnessed a gradual but perceptible decline in the number of permanent positions in the U.S. Customs Service, whereas the budget more than doubled (from nearly $26.4 million to $54 million). The contrast in these two indices of growth can be reconciled, in part, by noting increases in expenditures (and budget authority) due to inflation as well as improvements in facilities and non-manpower resources, especially advanced communications and surveillance equipment.

From 1960 through 1977, the number of permanent positions increased by a factor of two (from 7313 to 14,682), while the budget increased by a factor of 4.5 (from $78.8 million to $359 million).

IV. Congressional Legislative and Oversight Jurisdiction

The U.S. Customs Service and its activities are included in the jurisdiction of numerous congressional committees and subcomittees, although principally located in two committees in each Chamber: the Appropriations Committees and House Ways and Means and Senate Finance Committees.

The Appropriations Committees, of course, possess jurisdiction over appropriations to the Service and the Subcommittees on the Treasury, Postal Service, and General Government exercise primary responsibility.

The House Ways and Means and the Senate Finance Committees have identical authorization and legislative jurisdiction as it affects the Customs Service. Senate Rule 25.1i(2) and House Rule XI.(v)(1) incorporate the following language: "Customs, collection districts, and ports of entry and delivery."

A series of legislative mandates and related jurisdictional responsibilities permit other committees either to oversee or to authorize programs and reorganizations affecting the U.S. Customs Service and its activities. Relevant committees include: the Budget Committees of both Chambers, House Government Operations and Senate Governmental Affairs, House Post Office and Civil Service, House International Relations which has "special oversight," and the Select Committees on Intelligence.

Authorized by the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344; 88 Stat. 299), the Budget Committees have responsibility over budgetary matters affecting particular agencies and programs, including Customs. The newly established, permanent House and Senate Select Committees on Intelligence possess comprehensive oversight and authorization jurisdiction over intelligence operations and intelligence agencies. Since the U.S. Customs Service has a minor intelligence capability, it, consequently, would fall under the jurisdiction of each committee. 135/ The third type of com-

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135/ The Senate Select Committee on Intelligence was created by S. Res. 400, May 19, 1976, and the House counterpart by H. Res. 658, July 14, 1977.

mittee with broad responsibilities that would incorporate Customs is that which has authority for presidential reorganization plans and a unique oversight mandate: the House Committee on Government Operations and the Senate Committee on Governmental Affairs. Under the present reorganization plan authority -- i.e., the Reorganization Act of 1977 (P.L. 95-17; 91 Stat. 29) -- a resolution with respect to a reorganization plan is to be referred to both committees for recommendation. In addition both Committees possess broadly-encompassing oversight authority regarding the overall economy and efficiency of Government operations and activities and over executive branch organization and reorganization. 136/

Other congressional committees hold specialized authority regarding Customs. The House Committee on Public Works and Transportation receives measures "relating to the purchase of sites and construction of ...customhouses..." (House Rule X1(p)(5)). The House Committee on International Relations received "special oversight" authority, via the 1974 House Committee Reform Amendments (H. Res. 988, Oct. 8, 1974), for "all laws, programs, and Government activities dealing with or involving customs administration ..." (House Rule X3(d)).

136/ House Rule X1(h) and Senate Rule 25.1(k). Two House documents are examples of such authority: U.S. Congress. House. Committee on Government Operations. Investigation of Mail Opening by the Customs Service: Fourteenth Report. Washington, U.S. Govt. Print. Off., 1977 (95th Congress, 1st session. House. Report no. 95-794); and ____. Subcomittee on Government Information and Individual Rights. Customs Service Mail Opening. Hearings, 95th Congress, 1st session. Washington, U.S. Govt. Print. Off., 1977.

The congressional committees with jurisdiction over civil service matters -- i.e., House Post Office and Civil Service and Senate Governmental Affairs -- may examine relevant Customs Service programs and practices. 137/ Oversight investigations or examinations may be exercised regarding Customs Service practices and activities by committees (or, more likely, subcommittees) with a constitutional rights orientation 138/ and/or with a special oversight mandate that would include the agency activities, as does the House Select Committee on Narcotics Abuse and Control (H.R. 1350, approved July 29, 1976).

By way of summary, the committees with primary responsibility are the Appropriations Committees and House Ways and Means and Senate Finance Committees, the latter possessing authorization and legislative authority for Customs. Nonetheless, numerous committees

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137/ See, for example, U.S. Congress. House. Committee on Post Office and Civil Service. Subcommittee on Retirement and Employee Benefits. Hazardous Duty Coverage for U.S. Customs and Immigration Inspectors. Hearings, 94th Congress, 1st session (on H.R. 4026 and H.R. 4986). March 17, 18, 1975. Washington, U.S. Govt. Print. Off., 1975.

138/ For instance, the House Judiciary Subcommittee on Civil and Constitutional Rights and the Senate Judiciary Subcommittee on Constitutional Rights. The latter included the Customs Service in its examination of Federal Government data banks: U.S. Congress. Senate. Committee on the Judiciary. Subcommittee on Constitutional Rights. Federal Data Banks and Constitutional Rights: A Study of Data Systems on Individuals Maintained by Agencies of the United States Government. (Committee print). Washington, U.S. Govt. Print. Off., 1974. Vol. 5.

have exercised some oversight regarding the U.S. Customs Service and its activities, while still others, including House Post Office and Civil Service and the governmental affairs and budget committees in both Chambers, have some legislative or reorganization responsibility regarding Customs.

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HISTORY OF THE IMMIGRATION AND NATURALIZATION SERVICE

A REPORT

PREPARED AT THE REQUEST OF

SENATOR EDWARD M. KENNEDY, *Chairman*

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

FOR THE USE OF

THE SELECT COMMISSION
ON IMMIGRATION AND REFUGEE POLICY

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LETTER OF SUBMITTAL

December 4, 1980

Honorable Edward M. Kennedy
Chairman, Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am pleased to submit a report on the history of the Immigration and Naturalization Service (INS) which was prepared at your request by the Congressional Research Service.

The report was written by Sharon D. Masanz, Technical Information Specialist, Education and Public Welfare Division, with the guidance of Joyce Vialet, Specialist in Social Legislation, Education and Public Welfare Division. The report presents the chronological development of INS within the context of U.S. immigration policy.

We hope that this report will serve the needs of the Committee on the Judiciary, as well as the needs of other committees and Members of Congress concerned with immigration.

Sincerely,

Gilbert Gude
Director

Enclosure

XI. INS Reviews and Proposed Reorganizations

Since the inception of INS, many studies have been conducted to examine its structure and functions. These studies have generally focused on three areas: (1) the overlapping of functions or duplication of effort occurring between INS and other governmental agencies; (2) the ability of the Service to perform its functions effectively; and (3) specific administrative mechanisms that reformers wanted to see changed, for example, the status of the Board of Immigration Appeals. The following discussion addresses only those studies concerned with the first two issues, that is, the overlapping of functions and the ability of the Service to perform effectively.

MAJOR CONCERNS PRIOR TO 1960

During the early years, most concern was directed at the overlapping of functions or duplication of effort between INS and other agencies. Generally, the studies focused either on some method of consolidating border patrol forces from INS and Customs in one agency or they focused on consolidating visa functions from the Department of State (DOS) and INS in one agency.

As early as 1932, the Bureau of Efficiency called for the consolidation of the Immigration Bureau's border patrol forces (then a part of the Department of Labor) with the Coast Guard in the Department of Treasury. The 1937 Byrd Committee Report and the 1940 Bureau of the Budget Report called for the consolidation of the inspection and patrolling functions of INS and Customs; and the 1948 Customs' Management Improvement Study suggested the creation of a Federal Border Enforcement Agency. The 1950 Senate Committee on the Judiciary Report No. 1515 recommended consolidating the functions of INS and Customs only where such consolidation would not impair enforcement of immigration laws. The Immigration and Nationality Act of 1952, based largely on this report, did not provide for consolidation of INS and Customs.

In 1949 the Commission on the Organization of the Executive Branch of the Government (the Hoover Commission) suggested the transfer of the Visa Division of the DOS to the Department of Justice (DOJ); this suggestion was repeated in 1957 by the Commission on Government Security (the Wright Commission). However, the 1950 Report of the Senate Committee on the Judiciary did not recommend substantial changes in the visa functions of the DOS and INS, although some duplication of function was noted. The 1953 President's Commission on Immigration and Naturalization (the Perlman Commission) suggested the need to create a new independent agency to perform immigration functions.

MAJOR CONCERNS DURING THE 1960'S AND EARLY 1970'S

During the 1960's and early 1970's, the focus of studies done on INS shifted almost entirely to the overlap in border functions. These studies primarily expressed concern regarding the efficiency of border inspections and recommended one-stop screening at border ports. The reports issued during this time included a 1962 U.S. Travel Service survey; the 1968 Bureau of the Budget study, "Interagency Report on Inspection at Ports of Entry"; and the 1973 General Accounting Office (GAO) study, "A Single Agency Needed to Manage Port-of-Entry Inspections—Particularly at U.S. Airports."

Concern regarding the increase in drug trafficking was mounting at this same point in time and to address these dual concerns, the Nixon administration submitted Reorganization Plan No. 2 to Congress in March 1973. This plan proposed two major organizational changes: (1) the creation of a single enforcement agency for Federal drug enforcement activities to be located in the Department of Justice; and (2) the transfer of the inspection forces of INS to the Bureau of Customs in the Department of Treasury to resolve the "divided responsibility for conducting port-of-entry inspections." [98] The second change was intended to improve both the detection of illegal aliens and the processing of persons entering the United States. However, it was also intended to strengthen drug enforcement, assuming that "the careful inspection of all persons and goods entering the United States is key in interdicting illegal drugs." [99]

Considerable opposition was expressed to the second part of the reorganization plan, particularly by INS union representatives. The opposition was primarily based on the problems INS employees would have in preventing illegal alien entries at places other than the ports when approximately 900 immigration inspectors were transferred from INS to Customs under the Plan. Thus, on May 22, 1973, the House Government Operations Committee recommended disapproval of the Plan. Congress later accepted Reorganization Plan No. 2 with the understanding that the second part would be repealed by separate legislation, which was accomplished with the passage of Public Law 93-253. The first part of Reorganization Plan No. 2 went into effect on July 1, 1973.

MAJOR CONCERNS FOLLOWING THE 1973 REORGANIZATION EFFORT

Since 1973, duplication of functions—particularly that of border management—has continued to be an issue of concern and study. Suggestions for consolidation have increasingly favored placing these responsibilities in the Department of Treasury rather than in DOJ. Moreover, INS has come increasingly under a barrage of criticism ranging from corruption charges to charges of inefficiency and mismanagement. The following is a discussion of the corruption charges; a description of some of the studies relating to INS during this period; and an overview of the most recent reorganization proposal.

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[98] Executive Office of the President. Office of Management and Budget. Drug Law Enforcement. Reorganization Plan. Washington, May 14, 1973.

[99] Ibid.

Corruption charges

In 1972, the Justice Department began an investigation under the code name "Operation Cleansweep" of alleged widespread corruption and mismanagement in the Southwest region of the INS. The investigation, which lasted 3 years, ended "with a few criminal indictments and much conflict over the handling and results of the investigation." [100]

Operation Cleansweep did not completely resolve the question of the scope of corruption and mismanagement among immigration employees. When the investigation was officially over, there was still tension between the Justice Department officials who felt they had completed a thorough investigation which yielded little solid evidence, and critics both in and out of government who "believe the department bungled the investigation or engaged in a coverup." [101]

Similar corruption charges were leveled against INS in the late 1970's. However, according to David Crosland, Acting Commissioner of INS, the corruption charges were vastly inflated and covered the last 15 years rather than only recent years. He said that identifiable incidents had been investigated by INS, with 14 people cleared of wrongdoing, 5 employees terminated before disciplinary action was taken against them, 25 employees disciplined through suspension or admonishment, 4 people indicted, and 5 cases still under investigation by the Civil Rights Division of the Justice Department.[102]

Studies of INS after 1973

As pointed out by David Crosland, Acting Commissioner of INS, in his testimony before the Senate Appropriations Subcommittee on March 15, 1980:

> Major changes in the law in 1965 resulted in considerably more paperwork for the agency, and it was not and has not been equipped to cope with it, either through systems and procedures or through automation. At the same time, immigration to this country has been increasing substantially, and we now find ourselves in a hole from which it will not be easy to extricate ourselves.[103]

The studies, reports, and hearings on INS during the period after 1973 reflect the problems summarized by Mr. Crosland. INS has been criticized both for internal problems, that is, records management, lack of fiscal accountability, poor service to the public, low employee morale, and for external operations, that is, its inability to stem illegal border entries and its ineffective control over nonimmigrants in the United States.

Some studies relating to these issues done during this period include the 1973 GAO report, "Need for Improvements in Management Activities of the Immigration and Naturalization Service"; two 1975 GAO reports, "Aliens Are Illegally Entering the U.S. Mainland through Puerto Rico and the U.S. Virgin Islands," and "Better Control Needed To Prevent Foreign Students From Violating Their Conditions of Entry and Stay While in the United States"; the 1977 GAO study, "Illegal Entry at United States-Mexico Border—Multiagency Enforcement Efforts Have Not Been Effective in Stemming the Flow of Drugs and People"; the 1979 GAO report, "New Alien

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[100] Farber, M. A. "Immigration Service Inquiry Ending; Results in Dispute," The New York Times, Sunday, Apr. 27, 1975, sec. 1, p. 47.

[101] Ibid.

[102] Statement of David Crosland before the Senate Appropriations Committee, Mar. 15, 1980, pp. 3–4.

[103] U.S. Department of Justice. Mar. 15, 1980. Statment of David Crosland, p. 11.

Identification System—Little Help in Stopping Illegal Aliens"; the 1980 Report from the House Committee on Government Operations, "Immigration and Naturalization Service Records Management Problems"; and, most recently, a 1980 GAO report, "Prospects Dim For Effectively Enforcing Immigration Laws."

In the early 1970's, Congress appropriated more money than the DOJ requested for INS. However, by the close of the decade, Congressional reactions to INS became increasingly negative. The Senate Committee on the Judiciary Reports on the Department of Justice Authorization Act for fiscal year 1980 and 1981 exemplify congressional concerns. In support of its decision to authorize only the funds requested by the administration for INS for the next fiscal year, the Senate Report for fiscal year 1981 states:

> In sum, INS must take immediate steps to: (1) set priorities among its many competing demands; (2) eliminate waste and inefficiency throughout the Service; (3) apply modern management tools and techniques to eliminate backlogs; (4) introduce timely processing; (5) insure equitable treatment for all applicants and undocumented aliens; and, (6) improve the working conditions for its employees.
>
> Because of these management problems, the committee finds it impossible to increase the Immigration and Naturalization Service authorization at this time. The committee awaits submission of the management analysis called for in last year's authorization bill which should provide INS with a 5-year plan for improvement of its operations. Upon receipt of that analysis, the committee will work with INS to authorize whatever resources are required to make INS an effective agency of Government.[104]

The current position taken by INS with regard to criticisms is summed up in Crosland's statement before the Senate Appropriations Subcommittee wherein he identifies areas of improvement in INS management techniques; discusses legislative changes that would help INS by reducing unnecessary paperwork; and states that some of INS' problems result from the past failure of INS to request the necessary resources and to document the need for funds and personnel.

The Carter administration reorganization proposal

Two reports were undertaken during the late 1970's for the Carter administration as preparation for a major reorganization effort. These were the September 1977 Office of Drug Abuse Policy report, "Border Management and Interdiction—An Interagency Review," which recommended that a single agency, to include INS and Customs, perform port-of-entry inspections and patrol between ports of entry; and the 1978 recommendation of the President's Reorganization Project to transfer visa policy functions to INS and consolidate INS inspection and border patrol program with the U.S. Customs Service in a Border Management Agency in the Treasury Department.

In mid-1978, the Carter administration formulated a reorganization plan that would have created a single border patrol agency in the Treasury Department. The plan called for the creation of a new Border Management Agency within the Treasury Department; it transferred to this agency the functions of the Customs' Service and the inspection and border patrol functions of INS. All of the officers engaged in those functions at Customs and INS were also to be transferred to the new agency under this plan. In addition, the visa function of the State Department, and related personnel, were to be transferred to the Department of Justice.

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[104] U.S. Congress. Senate. Committee on the Judiciary. Department of Justice Authorization Act, fiscal year 1981. Report to accompany S. 2377, S. Rept. 96-786, 96th Cong., 2d sess. Washington, U.S. Government Printing Office 1980, p. 22.

The administration, however, deferred introducing the plan until a later time, reportedly because of criticism from various Hispanic groups and the INS labor union. The Hispanic groups' concerns were that the plan undercut the first Mexican American to head the INS, and that the Treasury Department would lack INS' sensitivity in dealing with Mexicans and immigration problems. The union's concerns were that the transfer of INS employees would result in its losing members to an independent union in the Treasury Department as well as diluting and fragmenting "an already minimal effort to stop the flood of illegal aliens into the United States." [105]

In a memorandum to the Secretaries of State and Treasury, the Attorney General, and the Director of the Office of Management and Budget dated July 19, 1978, President Carter said:

> * * * On June 30th I made several decisions concerning the reorganization recommended by Director McIntyre, my Reorganization Project Staff, and the Departments of Justice and Treasury. Since then, Congressional leaders have requested that the Plan not be submitted until early next year. I agree with their recommendations, but I wish to make it clear that I do plan to reorganize these functions to make them more efficient and compassionate. We should use the additional time before submitting the Plan to continue our consultations with the Congress and other interested parties. In this regard: 1. I plan to defer submitting to the Congress the Reorganization Plan developed pursuant to my June 30, 1978 decisions until January 1979. 2. I hereby direct each of you to provide support and assistance to my Reorganization Project and to have your organizations develop supporting materials and implementation plans, as appropriate, so that, by December 1978, all necessary consultations will have been completed, detailed implementation plans will have been prepared, and a draft of the Plan, Message, and related documents will have been submitted to me.[106]

However, the Carter administration plan was not resubmitted during the 96th Congress.

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[105] Nelson, Jack. "Carter to Delay Bill to Revamp Border Patrol," Los Angeles Times, Thursday, July 20, 1978, pt. 1, p. 18.

[106] American Council for Nationalities Service. Interpreter Releases, vol. 55, No. 31 (Aug. 9, 1978), pp. 303–304.

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THE U.S. COAST GUARD

PREPARED AT THE REQUEST OF

HON. BOB PACKWOOD, *Chairman*

COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE

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BRIEF HISTORY OF THE UNITED STATES COAST GUARD[*]

Since 1967, the United States Coast Guard (USCG) has been part of the Department of Transportation (DOT), but throughout most of its history it was in the Department of the Treasury. During certain times of emergency, however, the President placed it temporarily under the supervision of the Department of the Navy. Officially established in 1915 as a merger of the Revenue-Cutter Service and the Life-Saving Service, the USCG can trace its origin to the earliest period under the Constitution. This section reviews that history and identifies major organizational developments affecting the Coast Guard.[1]

REVENUE MARINE AND REVENUE CUTTER SERVICE

ORIGIN

Some sources cite 1789, others 1790, as the origin of the Treasury Department's Revenue Marine Service, which was a forerunner of the USCG.[2] Part of the reason for the difference is the absence of an express statutory or official departmental designation of a "Revenue Marine Service" or a "Revenue Cutter Service" during this formative period.[3] Another factor contributing to different dates of

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[*] Prepared by Frederick M. Kaiser, specialist in American National Government, Government Division.

[1] Among the numerous sources, from the Coast Guard itself as well as outside analysts, are: Bloomfield, Howard V. L. "The Compact History of the United States Coast Guard." New York, Hawthorn Books, Inc., 1966; Bragaw, Louis K. "Managing a Federal Agency: The Hidden Stimulus." Baltimore, the Johns Hopkins University Press, 1980; Capron, Capt. Walter C. "The U.S. Coast Guard." New York, Franklin Watts, Inc., 1965; Davis, Grant M. "The Department of Transportation." Lexington, Mass., Heath Lexington Books, 1970; Evans, Stephen H. (captain) "The United States Coast Guard, 1790–1915; A Definitive History (With a Postscript: 1915–1949)." Annapolis, Md., the United States Naval Institute, 1949; Smith, Darrell Hevenor, and Fred Wilbur Powell. "The Coast Guard: Its History, Activities and Organization." Washington, the Brookings Institution, 1929; U.S. Congress. Senate. Select Committee to Investigate the Executive Agencies of the Government. Investigation of the Executive Agencies of the Government (Preliminary report to the select committee from the Brookings Institution). Senate Report No. 1275, 75th Congress, 1st session. Washington, U.S. Government Printing Office, 1937. (Hereafter referred to as Senate Select Committee, 1937 report); U.S. President's Commission on Economy and Efficiency in the Government Service. "Message of the President Transmitting Reports of the Commission on Economy and Efficiency." House Document No. 670, 62d Congress, 2d session. Washington, U.S. Government Printing Office, 1912 (hereafter referred to, as it was commonly known, as the Taft Commission, 1912 report); and two works officially prepared by the U.S. Coast Guard: U.S. Department of the Treasury. U.S. Coast Guard. "Functions, Duties and Organization of the United States Coast Guard." Washington, U.S. Government Printing Office, 1917; and "U.S. Coast Guard: A Study of Its Origin, Responsibilities, Relationships, and Direction." Washington, U.S. Government Printing Office, 1963.

[2] Official USCG sources cite the latter 1790 date, as does Capt. Stephen Evans' history. Citations in footnote 1, supra. On the other hand, Smith and Powell's detailed study, "The Coast Guard," p. 1, recognizes the earlier ancestry and the Senate Select Committee 1937 report, p. 822, baldly states: "The Revenue Cutter Service was established in 1789 to assist in the collection of customs and tonnage duties."

[3] Initially the Revenue Cutter Service did not have an official statutory designation, a condition unchanged until 1863 when an act of Congress identified the "United States Revenue-Cutter Service" (12 Stat. 639). It had been referred to by that name by the Secretary of the Treasury as early as 1832, but alternatively was called the "Revenue Marine," the "Revenue Service," the "Revenue-Marine Service," and the "system of cutters" in official documents. Smith and Powell, "The Coast Guard," p. 1.

(E.O. 12324) charging the Coast Guard with enforcing the "suspension of the entry of undocumented aliens and the interdiction of any defined vessel carrying such aliens."

REORGANIZATIONS AFFECTING THE COAST GUARD

A number of actual or proposed reorganizations have affected the Coast Guard since its official establishment in 1915. This section examines the major ones, beginning with its relatively recent, and most important, merger into the new Department of Transportation (DOT), and proceeding to other reorganizations that have affected its internal structure and its relationship with other agencies, and finally, to selective proposals to realine or consolidate the USCG with other agencies.

Merger into new Department of Transportation, 1966-67

Consolidating preexisting agencies with newly created ones, the Department of Transportation became operational on May 1, 1967, based upon legislation enacted the previous year (Public Law 89-670; 80 Stat. 931).

President Johnson's message recommending such an establishment summarized the Coast Guard's role as an agency "whose principal peacetime activities relate to transportation and marine safety."[56] That focus distinguished it from its origins in the Revenue Marine of the Treasury Department, as part of the national fiscal organization through the collection and safe-guarding of customs and tonnage duties. The 1966 report on the proposal, from the House Government Operations Committee, took issue with objections to transferring the Coast Guard from its home of 176 years—the Treasury Department—by the following: "* * * while it [USCG] has a traditional link to the Treasury Department, its primary civil functions relate to maritime and to some extent air transportation. Now that a separate DOT is being set up, that Department is the logical home for the Coast Guard * * * ."[57] (There is no immediate indication that the 1966-67 transfer relied upon or was even aware of a strikingly similar recommendation from a 1949 Hoover Commission task force, reviewed below.)

By the transfer, the Coast Guard joined the movement of several other agencies, such as the Bureau of Immigration and the Public Health Service. Those units, which also originated in the Treasury Department, acquired a sufficiently different focus, either through new authorities and duties or through new interpretations of their responsibilities, to warrant transfer to another and newer department.

Merged as an "indivisible unit" into the new DOT, the Coast Guard was granted separate bureau status and "function[ed] as the only maritime operating agency of the DOT since the Congress did not transfer the Federal Maritime Administration from the Department of Commerce."[58] (The Maritime Administration was finally tranferred to Transportation, as Johnson had initially recommended in 1966, on August 6, 1981, by act of Congress. See Public Law 97-31.) In addition, by the merger, the Coast Guard gained responsibility for a new program: That is pilotage on the Great Lakes, since the DOT was assigned administration of the Great Lakes Pilotage Act.[59] Moreover, with the inception of DOT, Coast Guard obligational authority—with expenditures rising from $545,327,000 in fiscal year 1968 to an estimated $574,450,000 in fiscal year 1969—was "increased substantially * * * with capital outlays increased materially * * *."[60]

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[56] U.S. President. Lyndon Johnson. "Message on Transportation, March 2, 1966," p. 3.

[57] U.S. Congress. House. Committee on Government Operations. "Department of Transportation Act; Report to Accompany H.R. 15963." House Report No. 89-1701, 89th Congress, 2d session. Washington, U.S. Government Printing Office, 1966; p. 23.

[58] Davis, "The Department of Transportation," p. 106.

Other reorganizations

From 1915 until its consolidation into the DOT in 1966, the Coast Guard weathered a number of reorganization proposals, including the attempt described earlier by the Navy after World War I to retain it. USCG success in maintaining its position within Treasury is reflected indirectly by a 1939 statute (53 Stat. 561) that conferred reorganization authority on the President but expressly made the Coast Guard—along with other, mostly independent, commissions and boards—immune from being transferred under it. Moreover, in that same year, the Lighthouse Service, celebrating its 150th anniversary, was acquired by the Coast Guard through Reorganization Plan No. 2 of 1939 (53 Stat. 1431), pursuant to the reorganization authority that had exempted the USCG from abolition or transfer.

Shortly after the 1939 developments, and in response to pressing demands of World War II, the Bureau of Marine Inspection and Navigation was temporarily transferred to the Coast Guard, as noted above. That reassignment became permanent on January 1, 1946, through an Executive order issued by President Truman on December 28, 1945 (E.O. 9666).

Internal Coast Guard transformations occurred in 1949, along with the codification of its authority as part of title 14, United States Code, that same year. The initiative for such a change transpired in 1947, during House Appropriations Committee hearings on the fiscal year 1948 budget requests from USCG. The committee recommended, and Congress concurred, that there should be a "study of the administrative, management, and fiscal policies and affairs of the Coast Guard, such study to be made by such persons or organizations, as may be designated by the Secretary of the Treasury and the Chairmen of the Committees on Appropriations * * *" (61 Stat. 702). The consultant selected was the Ebasco Corp. of New York, whose report "completely sustained the Coast Guard's requests for appropriations * * * [recommending] a sizable increase in personnel and operating funds * * * [and finding] that Federal statutes were either vague or lacking in exactly specifying Coast Guard tasks and missions."[61]

Other internal changes were dictated by "an exhaustive interdepartmental study of Coast Guard Roles and Missions," conducted in 1962 at the request of Treasury Secretary Dillon.[62] The intent was to "define for the first time in its history * * * the scope and extent of its responsibilities," as classified under its 10 major missions at the time: Port security, military preparedness, aids to navigation, oceanography, law enforcement, search and rescue, ocean stations, merchant marine safety, reserve training, and icebreaking.[63]

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[59] Ibid., p. 107.
[60] Ibid., pp. 107 and 110.
[61] Summary of Ebasco report in Capron, U.S. Coast Guard, pp. 176-177.
[62] U.S. Treasury, "U.S. Coast Guard: A Study," p. 7.

Proposed reorganizations

Because of its multimission capability and service orientation, the USCG has been subject to proposed reorganizations in civil areas, as well as the periodic proposals to merge it into the Navy. The most prominent of these is in the law enforcement field, especially border security to combat illegal immigration or illicit drug trafficking or both.

Regarding immigration law enforcement, President Hoover, in 1930, recommended unification of the three main border patrol units—the Immigration Border Patrol of the Immigration and Naturalization Service, then in the Labor Department, the Customs Patrol, and the Coast Guard—under the jurisdiction of the Coast Guard. Incorporated in H.R. 11204, in the 71st Congress, the proposal passed the House but not the Senate, in part because of the perceived incompatibility of the missions of the agencies involved.[64] Then Under Secretary of the Treasury Ogden Mills commented on this theme:

> The Coast Guard has other duties more important than the prevention of smuggling on our land borders. . . . Patrolling our land borders is essentially a police function. The Coast Guard proper is a naval organization charged with the duty of protecting life at sea and enforcing on our ocean boundaries the laws of the United States. We do not propose to make policemen of our sailors. But we do want to avail ourselves of their central organization.[65]

The same reorganization was advanced by President Hoover 2 years later, under his new reorganization authority, but was defeated through a resolution of disapproval by the House on January 19, 1933, following recommendations by its Committee on Expenditures in the Executive Branch.[66] Commenting on these defeated recommendations, Arthur Millspaugh also contended that only the "appearance of duplication" would be ended with a consolidation of such border patrol units and that "inevitably, considerable damage would be done to the continuity and unity of operations" within the agencies which would lose their border patrols to the Coast Guard.[67]

Forty-four years later, in 1977, a similar reorganization proposal was raised. The Office of Drug Abuse Policy (ODAP) reviewed the problems of border management, duplication, lack of cooperation and coordination, and inadequacy of resources. The ODAP report presented four options to deal with these concerns, one of which was the creation of an expanded multipurpose border management agency, composed of INS, Customs, and the Coast Guard.[68] However, the recommendation of the review team advanced a modified version of this option, leaving out the Coast Guard from the consolidation of Customs and INS into a new agency.[69]

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[63] *Ibid.*

[64] Congressional Record, vol. 72, July 1, 1930, pp. 12217-12237.

[65] U.S. Congress. House. Committee on Interstate and Foreign Commerce. Border Patrol. Hearings, 71st Congress, 2d session, Apr. 24 and 25, 1930. Washington, U.S. Government Printing Office, 1930, pp. 5-6.

[66] President Hoover's Executive Order 5966 was one of 11, affecting 58 Government agencies, which he submitted in late 1932, following his reelection loss to Franklin Roosevelt. The resolution of disapproval (H. Res. 334) was agreed to by the House on Jan. 19, 1933. Congressional Record, vol. 76. Jan. 19, 1933, pp. 2110-2126.

[67] Millspaugh, "Crime Control by the National Government," pp. 200-201.

The ODAP report, actually prepared during the Ford administration, was echoed in the succeeding Carter administration. Under the aegis of the President's reorganization project (PRP), a draft report was released in 1977, also recognizing several distinct options for effecting improvements in border management to stem illegal immigration and illicit drug trafficking.[70] Although the PRP omitted the USCG from a proposed Border Management Agency, to be located in either Treasury or Justice, it recognized Coast Guard's potentially important but then "deemphasized * * * law enforcement role" by raising an option that would have transferred the Coast Guard to the Department—Treasury or Justice—housing the new Border Management Agency.[71]

Another proposed reorganization affecting USCG was advanced by the first Hoover Commission. Its 1949 report identified the Treasury Department as one of the largest and most internally diversified departments. In order to rid the Department of its nonfiscal elements, the final Commission recommendation proposed to transfer the "Coast Guard and probably certain of the marine functions of the Bureau of Customs, to the Department of Commerce."[72] Although that specific recommendation was not acted upon at the time, it and another forerunner were harbingers of the eventual Coast Guard transfer. The Commission's Task Force on Fiscal, Budgeting, and Accounting Activities had already proposed that the "marine activities recently assigned to the Bureau of Customs should go along with the Coast Guard" to a proposed Department of Transportation.[73] In fact, when such a department was created in 1967, some Customs marine activities were consolidated into the Coast Guard before its transfer.

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[68] U.S. Executive Office of the President. Office of Drug Abuse Policy. "Border Management and Interdiction—An Interagency Review." [Washington] 1977, pp. 46-59.

[69] Ibid., p. 59.

[70] U.S. Office of Management and Budget. President's reorganization project, "Reorganization Options Related to Border Management" (draft report). Washington. Dec. 14, 1977.

[71] Ibid., p. 25. None of the alternatives or options were acted upon, since the administration deferred and eventually abandoned the introduction of any plan to Congress. This occurred "reportedly because of criticisms from various Hispanic groups and the INS labor union," which perceived that the most likely realignment—transferring INS to Treasury—would adversely affect their interests and policy positions. U.S. Congress. Senate. Committee on the Judiciary. History of the Immigration and Naturalization Service." Committee print, 96th Congress, 2d session. Washington, U.S. Government Printing Office, 1980, p. 85.

[72] U.S. Commission on the Executive Branch of the Government. "Treasury Department: A Report to the Congress." Washington, U.S. Government Printing Office, 1949, p. 6.

[73] U.S. Commission on the Executive Branch of the Government. Task Force on Fiscal, Budgeting, and Accounting Activities [appendix F]. Washington, U.S. Government Printing Office, 1949, p. 17

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PROPOSALS TO REORGANIZE IMMIGRATION AND BORDER-RELATED FUNCTIONS

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BACKGROUND AND OVERVIEW

The Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1101 et seq.) is the basic law governing immigration to the United States. The Attorney General has primary responsibility for the administration and enforcement of immigration law. Nearly all of the Attorney General's responsibilities under the Immigration and Nationality Act have been delegated to the Commissioner of the Immigration and Naturalization Service (INS) in the Department of Justice (DOJ). Other Federal agencies with responsibilities in the area of immigration include the Bureau of Consular Affairs in the Department of State (DOS), which issues visas; the U.S. Public Health Service in the Department of Health and Human Services (HHS), which examines entrants for communicable and other diseases; and the U.S. Customs Service in the Department of Treasury (DOT), which participates with INS in a dual inspection system at some land border ports of entry. In addition, the Department of Labor certifies aliens seeking admission to the United States to perform labor.

Proposals to reorganize the administration of immigration functions performed by these agencies have been advanced since the early 1900s. These proposals were generally predicated on concerns regarding the efficiency and effectiveness of INS in performing its responsibilities; on concerns regarding perceived inefficiencies resulting from overlap and duplication of functions performed by various agencies; and on concerns regarding other border-related activities relating to drug trafficking. The proposals basically sought to accomplish one or more of the following:

1. Transfer the responsibility for issuing visas from the Department of State to INS in the Department of Justice;
2. Combine the INS immigration inspection and border patrol functions with the Customs Service inspection and patrol functions in a single agency, either within Customs (in the Department of Treasury) or in a newly-created agency;
3. Combine all immigration functions (inspections, visa issuance, border patrol, etc.) in a single, independent agency.

Proposals have also been made to utilize one-stop inspections at ports, combining the four agency's functions; to designate "lead" agencies for various border management functions; and to assign the responsibility for management of operations at Mexican border ports to a single agency, most probably the U.S. Customs Service.

Despite the numerous proposals made and the continued expressions of concern regarding problems in the administration of immigration functions, these functions have not been reorganized (although interim measures, such as one-stop inspection, have been utilized). There are several reasons for this: First, the agencies involved, particularly the Department of State, have consistently opposed the changes. Since 1957, INS has favored some aspects of suggested reorganization proposals affecting its functions; the Department of State has not expressed such approval.

Second, during the 1960s and 1970s, the focus of concern shifted from improving immigration law enforcement to concern regarding management of border-related activities in response to increased drug trafficking. Several proposals addressing improved border management included reorganization of INS' inspection and border patrol functions. INS labor unions and other interest groups opposed changes that they believed would negatively affect INS employees' performance of the responsibilities remaining with INS or weaken the role of INS in immigration law enforcement.

Finally, Congress has generally supported existing Congressional mandates regarding the administration of immigration and border-related functions, suggesting that problems of duplication and overlap among involved agencies should be resolved through cooperation and coordination in lieu of more drastic measures. Congress has also suggested that INS' resources and funding should be increased so that the agency could function more efficiently and effectively. In addition, Congressional response to reorganization attempts was apparently negatively affected in at least one instance by efforts of the Executive Branch (e.g., the Office of Management and Budget) to effect immigration and border-related reorganizations without Congressional concurrence.

This paper describes the immigration responsibilities of the five agencies involved in the adminstration and enforcement of immigration law and summarizes the major reorganization proposals made between 1949-1981 relating to immigration and border-related functions.

AGENCY FUNCTIONS

Aliens seeking to enter the United States must complete the visa process prior to entry to the United States and must also undergo immigration and medical inspections at a port of entry to the United States before they are admitted. These processes are administered by different agencies: The State Department's Bureau of Consular Affairs is the primary agency involved in issuing visas; the INS and the Public Health Service are the primary agencies involved in the inspections procedures at ports of entry. The Labor Department's Employment and Training Administration certifies aliens for permanent and temporary employment. The U.S. Customs Service is also involved in some port-of-entry inspection processes. The INS has the final responsibility for determining alien admissibility. The following is a brief description of the major immigration responsibilities of the agencies involved in the administration and enforcement of immigration law.

Immigration and Naturalization Service (INS)

The responsibilities of the INS in the Department of Justice include inspecting persons seeking entry to the United States at ports of entry or preclearance centers to determine their admissibility; patrolling the U.S. borders and conducting other activities to prevent illegal entries to the United States; investigating, apprehending, and removing aliens who are in the United States in violation of the law; providing services to the public, such as adjudicating applications for benefits, processing naturalization and citizenship applications, and providing information and forms; and detaining and removing undocumented aliens from the United States and providing administrative hearings on immigration matters.

Bureau of Consular Affairs

The State Department's Bureau of Consular Affairs, through its Visa Office and consular officers abroad, is responsible for issuing or refusing visas for temporary and permanent stays in the United States. Immigrant visas are allocated according to certain preference categories which govern the priority of admission under immigration laws. A petition requesting preferred status must be approved by INS before the consular officers may issue a visa. In addition, aliens who are screened against admission criteria abroad by the Bureau of Consular Affairs during the visa process are screened again by INS upon their arrival in the United States.

Employment and Training Administration

The Labor Department's Employment and Training Administration is responsible for certifying that the immigration of certain workers will not displace U.S. workers or adversely affect U.S. wages or working conditions. This certification must be issued by the Labor Department before the consular officers may issue immigrant visas to aliens wishing to enter the United States under the third or sixth preference or nonpreference categories for the purpose of employment here. Third preference covers professionals and certain aliens with exceptional abilities in the arts and sciences and sixth preference covers skilled or unskilled labor. The Labor Department also certifies H-2 nonimmigrant workers.

U.S. Public Health Service

Another agency having a significant role in the administration of immigration laws is HHS's U.S. Public Health Service. Public Health doctors examine visa applicants abroad, before the visa is issued, and also examine incoming aliens at ports of entry for evidence of communicable and other diseases.

U.S. Customs Service

The Treasury Department's U.S. Customs Service participates with INS in a dual inspection program at some land border ports of entry. The dual inspection procedure combines the immigration and customs inspections in one stop, using Immigration and Customs officers who are cross-designated to perform both functions.

SUMMARY OF MAJOR REORGANIZATION PROPOSALS (1949-1981)

1949--Commission on Organization of the Executive Branch of the Government Report and 1950--Senate Committee on the Judiciary Response and Recommendations

The Commission on Organization of the Executive Branch of the Government (popularly known as the "First Hoover Commission," after the chairman) was directed by Congress to study and investigate the organization and methods of operation of executive agencies and make recommendations to improve their efficiency and service. 1/ During the study, the Commission examined the State Department's functions and in its report issued in 1949 recommended, among other things, that the responsibility for non-diplomatic visas should be transferred from the State Department to the Department of Justice (DOJ). This recommendation was based on the proposition that, as a general rule, the State Department should not be given the responsibility for the operation of specific programs so that it might be a "more effective instrument of the President in the formulation and implementation of foreign policy. . . ." 2/

Both the Department of State and the Senate Judiciary Committee responded to the Commission's recommendations. The State Department established several committees to study the recommendations from the Commission and in March 1949,

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1/ P.L. 162, 80th Cong.

2/ U.S. Congress. House. Commission on Organization of the Executive Branch of the Government. The Nineteenth and Concluding Report of the Commission on Organization of the Executive Branch of the Government. House Doc. No. 197, 81st Cong., 1st session. Washington, Govt. Print. Off., 1949. p. 54.

one of these committees, the Visa Task Force, issued a report counseling against acceptance of the Hoover Commission recommendation to consolidate immigration functions. 3/

In 1947, the Senate authorized a complete investigation of the immigration system, including the administration of immigration law, by the Senate Committee on the Judiciary. In its report (Senate Report 1515), published in 1950, the Committee responded to the Hoover Commission recommendation to transfer the visa functions to the DOJ by stating that the Committee had seriously considered this option, but that the Committee members believed continued separation of the visa process and immigration procedure would be an additional barrier to the entry of inadmissible aliens.

The report noted that "there undoubtedly is improvement possible in the present system of having visas issued by consular officers and examinations at the port of entry conducted by officers of a separate agency, the Immigration Service, but it appears that corrections can be made without such drastic changes as consolidation." 4/ The report further noted that "officials of the two agencies [the Immigration Service in the DOJ and the Visa Division of the State Department] insisted . . . that the present separation of functions should be maintained." 5/

3/ President's Commission on Immigration and Naturalization. Whom We Shall Welcome; Report of the President's Commission on Immigration and Naturalization. Washington, U.S. Govt. Print. Off., [1953]. p. 133.

4/ U.S. Congress. Senate. Committee on the Judiciary. The Immigration and Naturalization Systems of the United States. Report No. 1515, Pursuant to S. Res. 137 to Make an Investigation of the Immigration System, 81st Cong., 2nd session. Washington, Govt. Print. Off., 1950. p. 333.

5/ Ibid., p. 327.

1953--President's Commission on Immigration and Naturalization Report

The Senate Report 1515 (discussed above) became the basis for the Immigration and Nationality Act of 1952 (P.L. 82-414). This Act (known as the McCarran-Walter Act, after its sponsors) was passed over President Truman's veto. It did not address the reorganization of visa functions, in accordance with the recommendations of the Senate Committee on the Judiciary contained in Senate Report 1515. In an effort to again study and evaluate the immigration and naturalization policies of the United States, including the administration of immigration laws, the President's Commission on Immigration and Naturalization (popularly known as the "Perlman Commission," after its chairman) was established in 1952 by President Truman by Executive Order 10392. The Commission's report, issued in 1953, included the recommendation that the immigration functions performed by the Departments of State and Justice be consolidated under a single independent administrative agency. 6/

The Commission noted in its report that "all witnesses who addressed themselves to this problem in the Commission's public hearings urged that the functions of consular and immigration officers should be consolidated." 7/ The report also noted that "the best available information indicates that this costly, unwieldy, and unbusiness-like duplication serves no reasonable purpose. It is hardly more than historical accident. . . ." 8/

The Commission suggested that the administration of immigration and naturalization functions and visa allocations should not be a part of any existing department or agency, but should be the responsibility of a new independent

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6/ Whom We Shall Welcome, p. 134-5.

7/ Ibid., p. 134.

8/ Ibid.

agency. The report cited the Federal Power Commission and Federal Communications Commission as examples of the type of agencies created, as they envisioned the consolidated immigration agency, to "exercise legislative, quasi judicial and administrative functions." 9/

No action was taken on the Commission's recommendations.

1957--The Report of the Commission on Government Security

The Commission on Government Security (popularly known as the "Wright Commission," after its chairman) was established by Congress in 1956 (P.L. 304, 84th Congress) to study various laws and programs relating to the protection of U.S. national security. In its 1957 report, the Commission indicated its support for the Hoover Commission recommendations. Like the Hoover Commission, the Wright Commission recommended that visa control, except for diplomatic and official visas, be transferred from the Department of State (DOS) to DOJ and that the Attorney General be authorized to maintain offices and personnel abroad to carry out the visa functions. The Commission report noted that "to insure maximum [national] security . . ., responsibility properly must be concentrated in the agency the Congress has always intended shall make final determination of admissibility or inadmissibility. To achieve that goal, there must be a realignment to insure complete control by the Immigration Service from the time the alien first makes application for a visa right down to the moment he first sets foot on the American shoreline. To accomplish this purpose, it necessarily follows that employees of the Immigration Service must be stationed abroad." 10/

9/ Ibid., p. 140.

10/ Commission on Government Security. Report. [Washington], Govt. Print. Off., 1957. p. 572-573.

The DOS was opposed to the transfer and cited a variety of reasons that the administration of the visa function should remain with them, including the possible impact of visa issuance on foreign affairs; the ready availability of security information to the DOS through its missions and consulates; and Congressional intent, expressed in the Immigration Act of 1924, that a double check of aliens entering the United States exist, with both consular officers and immigration officers serving as the checkpoints. 11/

The Wright Commission recommendations were included as part of S. 2416, in the 85th Congress (1957), "A Bill to Amend the Immigration and Nationality Act to Provide More Effectively for Immigration and Passport Security, and For Other Purposes." No action was taken on the bill.

Although no action was taken on these recommendations, there appeared to be a shift toward support of the transfer of visa functions among those who had previously opposed such a change. Congressman Francis E. Walter (co-author of the McCarran-Walter Act of 1952) and a member of the Wright Commission signed the Commission's report, indicating his support for the recommendations. In addition, the Commissioner of Immigration expressed his support for the transfer, saying that "having two agencies of the Government involved in the determination of admissibility is inefficient, ineffective and wasteful." 12/

1960s--Various Proposals Favoring Use of One-Stop Inspection

During the 1960s, the major focus in immigration was the debate over proposed changes to the national origins quota system contained in the Immigration and Nationality Act of 1952. Thus, there was no major impetus for administrative reforms during this period. However, three studies conducted during the

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11/ Ibid., p. 575.

12/ Ibid., p. 574.

1960s resulted in reports recommending that the inspection functions of the four concerned Federal agencies (the Immigration and Naturalization Service, the Bureau of Customs, the Public Health Service, and the Department of Agriculture) be administered in one stop. These reports are the 1962 Customs' Citizen Task Force Report; the General Accounting Office 1966 report; and the 1968 Bureau of the Budget Interagency Report. The Bureau of the Budget report further recommended that "at an appropriate future time" consideration should be given to assigning inspection responsibilities to one of the four agencies. 13/

During the late 1960s, INS, Customs, the Public Health Service, and the Department of Agriculture experimented with combined inspections; and in the 1970s, a two-stop inspection procedure was instituted combining the immigration and public health inspections in one stop and the Bureau of Customs and Agricultural Research Services inspections in a second stop.

In response to continued expressions of concern about inspection procedures, the FY 1982 U.S. Customs Service authorization required that Customs, in a joint effort with the Department of Agriculture's Animal and Plant Health Inspection Service and the INS conduct a 6-month test of a one-stop inspection system. A March 22, 1982, GAO report, "One-Stop Inspection System Speeds the Entry of International Travelers" noted that the "tested procedures expedited the flow of international travelers through the Federal inspection process" but the effect on "enforcement of entry laws and regulations is unclear." 14/

13/ Executive Office of the President. U.S. Bureau of the Budget. Interagency Report on Inspection at Ports of Entry. [Wash.], 1968. p. v.

14/ U.S. General Accounting Office. One-Stop Inspection System Speeds the Entry of International Travelers. Wash., U.S. General Accounting Office, 1982. p. 1.

1973--President Nixon's Reorganization Plan No. 2

In March 1973, the Nixon Administration submitted Reorganization Plan No. 2 to Congress. This plan addressed both increased concern about various agencies performing duplicative border functions and about increased drug trafficking. It proposed two major organizational changes: the creation of a single enforcement agency for Federal drug enforcement activities to be located in the DOJ and the transfer of the INS inspection forces to the Bureau of Customs in the Department of Treasury to resolve the "divided responsibility for conducting port-of-entry inspections." 15/ The second change was intended to improve both the detection of illegal aliens and the processing of persons entering the United States. However, it was also intended to strengthen drug enforcement, assuming that "the careful inspection of all persons and goods entering the United States is key in interdicting illegal drugs." 16/

Considerable opposition was expressed to the second part of the reorganization plan, particularly by the union representing INS employees, the American Federation of Government Employees. The Union officials argued that INS employees would have trouble preventing illegal alien entries at places other than the ports when approximately 900 immigration inspectors were transferred from INS to Customs under the plan.

On May 22, 1973, the House Government Operations Committee recommended disapproval of the plan. According to the Committee report issued, the disapproval was partly based on the Committee's belief that the plan was hastily formed which resulted in the Administration's failing to consult sufficiently with

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15/ Executive Office of the President. Office of Management and Budget. Drug Law Enforcement Reorganization Plan. Wash., 1973.

16/ Ibid.

employee organizations and resolving points of issue before making the proposal. However, the Committee also identified other problem areas, including concern regarding the management objectives of the plan and "technical and administrative questions" about the plan. 17/

Congress later accepted Reorganization Plan No. 2 with the understanding that the second part would be repealed by separate legislation, which was accomplished with the passage of Public Law 93-253. The first part of Reorganization Plan No. 2 went into effect on July 1, 1973.

1973--General Accounting Office (GAO) Report, "A Single Agency Needed to Manage Port-of-Entry Inspections--Particularly at United States Airports"

The President's Reorganization Plan No. 2 of 1973 was still under consideration when GAO published in 1973 its study report, "A Single Agency Needed to Manage Port-of-Entry Inspections--Particularly at U.S. Airports." GAO's study covered the services performed by INS; the Bureau of Customs in the Department of Treasury; the Public Health Service in what was then the Department of Health, Education and Welfare; and the Animal and Plant Health Inspection Service in the Department of Agriculture. The report noted that "increases in, and concentrations of, air arrivals and the four-way division of inspection functions contribute to a variety of problems such as duplication of staffing at several locations, differences in policies and procedures for work shifts and billing airlines for services, differing pay scales among the agencies; and diluted quality of inspection due to pressures during peak traffic periods. 18/

17/ U.S. Congress. House. Committee on Government Operations. Disapproving Reorganization Plan No. 2 of 1973 (Drug Enforcement Administration). Report No. 93-228, to Accompany H. Res. 382, 93d Cong., 1st session. Washington, U.S. Govt. Print. Off., 1973. p. 2-3.

18/ U.S. General Accounting Office. A Single Agency Needed to Manage Port-of-Entry Inspections--Particularly at U.S. Airports. Wash., U.S. General Accounting Office, 1973. p. 2.

The report suggested that single-agency management would provide for the development of a single inspection system; uniform administrative policies and procedures; improved scheduling, planning, and coordination; elimination of duplication; and reductions in space and staff requirements and inspection time. 19/

The Departments of Agriculture, Justice, and Treasury indicated that they agreed with GAO's recommendation. HEW indicated that they did not support the concept of single-agency management and "emphasized that only experienced inspectors understanding disease epidemiology could adequately carry out epidemiological surveillance." 20/

1974--The Office of Management and Budget (OMB) Study and Recommendations on Federal Law Enforcement on the Southwest Border and Congressional Response

Following the implementation of part one of Reorganization Plan No. 2, the U.S. Customs Service decided to deploy a force of patrol officers along the Mexican border. Thus, both Customs and INS agents were patrolling in the same area and there "were reports of controversy and friction between customs patrol officers and other Federal, State, and local law enforcement agencies." 21/ The Office of Management and Budget (OMB) was asked by several Members of Congress to "study and assess the situation in the interest of eliminating unnecessary duplication and effecting better coordination." 22/ In response to the requests,

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19/ Ibid., p. 2-3.

20/ Ibid., p. 3.

21/ U.S. Congress. House. Committee on Government Operations. Law Enforcement on the Southwest Border. House Report No. 93-1630, 93d Cong., 2d session. Wash., U.S. Govt. Print. Off., 1974. p. 2.

22/ Ibid.

OMB began in December 1973 a 6-month study of Federal law enforcement operations along the Southwest border between ports of entry. The OMB study concluded that "a long-term solution is needed to resolve the problems of enforcement duplication and competition along the Mexican border" and proposed that a single agency be designated to manage border enforcement activities. OMB also suggested, as an interim solution, that lead agencies be designated for the various border operations. OMB also proposed implementing a test of single-agency management of Mexican border ports whereby the Customs Service would have management responsibility for primary inspections, port security, and port administration. OMB indicated that single agency accountability for primary inspections was "consistent with previous General Accounting Office and OMB recommendations in which both the Justice and Treasury Departments have concurred." 23/

The House Committee on Government Operations responded to OMB's proposals in its report, "Law Enforcement on the Southwest Border," in December 1974. 24/ The Committee found that OMB "went too far in attempting to promulgate, without congressional sanction, a plan for single-agency management in southwestern border areas and functions." 25/ The Committee criticized the plan as being insufficiently detailed and lacking in supporting data and noted that "too many unsettled issues were left for resolution through operating agreements to be worked out by the agencies concerned." 26/ The Committee commented that it

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23/ U.S. Congress. House. Committee on Government Operations. Subcommittee on Legislation and Military Operations. Hearings on Law Enforcement on the Southwest Border (Review of Reorganization Plan No. 2 of 1973 and Related Developments), 93d Cong., 2d session. Wash., U.S. Govt. Print. Off., 1974. p. 315.

24/ House Rept. No. 93-1630.

25/ Ibid., p. 28.

26/ Ibid.

could see "no sense in having two different agencies conducting routine border patrol functions" but that the agencies had separate statutory responsibilities requiring their presence on U.S. land borders and that cooperative actions and shared use of resources should be possible. The Committee recommended that OMB withdraw its plan to reassign responsibilities between the Customs Service and INS and said that the "President should direct the Secretary of the Treasury and the Attorney General to draw up a mutually acceptable plan for coordinated conduct of their operations at and between border ports of entry." 27/ The Committee also recommended that affected employee organizations should be consulted on the proposed arrangement; that unjustified disparities between the two Services in such areas as job classifications and compensation should be eliminated; that Congress should be consulted and informed of arrangements prior to implementation; and that Congress and the President should consider increasing INS personnel. 28/

1977--Office of Drug Abuse Policy Report and 1978--President's Reorganization Project

Two reports were undertaken during the late 1970s for the Carter Administration as preparation for a major reorganization effort. These were the September 1977 Office of Drug Abuse Policy report, "Border Management and Interdiction--An Interagency Review," which recommended that a single agency, to include INS and Customs, perform port-of-entry inspections and patrol between ports of entry; and the 1978 recommendation of the President's Reorganization Project to transfer visa policy functions from the Department of State to INS

27/ Ibid., p. 29.

28/ Ibid., p. 29-30.

and consolidate INS inspection and border patrol programs with the U.S. Customs Service in a Border Management Agency in the Treasury Department.

In mid-1978 the Carter Administration formulated a reorganization plan that would have created a single border patrol agency in the Treasury Department. The plan called for the creation of a new Border Management Agency within the Treasury Department; it transferred to this agency the functions of the Customs' Service and the inspection and border patrol functions of INS. All of the officers engaged in those functions at Customs and INS were also to be transferred to the new agency under this plan. In addition, the visa functions of the State Department, and related personnel, were to be transferred to the DOJ.

The Administration, however, deferred introducing the plan reportedly because of criticism from various Hispanic groups and the INS labor union, the National Immigration and Naturalization Service Council of the American Federation of Government Employees. The Hispanic groups were concerned that the plan would undercut the authority of INS Commissioner Leonel Castillo, the first Mexican-American to head INS, and that the Treasury Department would lack INS' sensitivity in dealing with Mexicans and immigration problems. The union was concerned that the transfer of INS employees would result in its losing members to an independent union in the Treasury Department as well as diluting and fragmenting "an already minimal effort to stop the flood of illegal aliens into the United States." 29/

29/ Nelson, Jack. "Carter to Delay Bill to Revamp Border Patrol," Los Angeles Times, Thursday, July 20, 1978, pt. 1, p. 18.

The State Department was also reported as opposing the plan, because the proposal "would allow a police agency to make decisions that . . . should more properly be handled as foreign policy and humanitarian concerns." 30/

1980--Select Commission on Immigration and Refugee Policy Staff Report

The Select Commission on Immigration and Refugee Policy was established in 1978 to conduct a comprehensive review of immigration policy (P.L. 95-412). Although in its Final Report and Recommendations, issued in March 1981, the Commission recommended that the present Federal agency structure for administering U.S. immigration and nationality laws be retained, 31/ the staff noted in the 1980 Consultation on Operations and Structure that "if the Select Commission was putting together the first system for administering U.S. immigration laws, the staff would recommend the creation of an independent agency responsible for the making of policy and regulation and for overseas and domestic administration of the immigration and nationality laws." 32/ The staff document points out that now there are "jurisdictional problems to be overcome in making such a change. The Department of State has traditionally issued visas abroad and considers this function to be an instrument of foreign policy. As mentioned earlier, several previous studies have recommended the transfer of the visa issuance function from State to INS, either in Justice or an independent agency. The Department of State has always managed to block these recommendations." 33/ The staff

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30/ New York Times, May 31, 1978, p. A9.

31/ Select Commission on Immigration and Refugee Policy. U.S. Immigration Policy and the National Interest; the Final Report and Recommendations of the Select Commission. [Wash.], 1981. p. 234.

32/ Select Commission on Immigration and Refugee Policy. Consultation on Operations and Structure. [Wash.], 1980. p. 9.

33/ Ibid.

further notes that practical problems involved in transfers of personnel from various agencies would result from any reorganization and that these problems are even more important than the questions of jurisdiction.

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September 13, 1985

TO :

FROM : Frederick M. Kaiser fmk
Specialist in American National Government
Executive Organization and Operations Section
Government Division

SUBJECT : Proposals to Improve Border Patrol and Inspection

In response to our meeting of September 5, 1985, this memorandum briefly describes the wide range of proposals advanced to improve border patrol and inspection operations along United States land borders, especially in the southwest.

BACKGROUND

Seven agencies in six Federal executive departments are involved in the management of U.S. borders:

--Customs Service (Treasury Department)

--Immigration and Naturalization Service (Justice Department)

--Drug Enforcement Administration (Justice Department)

--Animal and Plant Health Inspection Service (Agriculture Department)

--Public Health Service (Health and Human Services Department)

--Coast Guard (Transportation Department)

--Visa Office (State Department)

Of these seven agencies, the Customs Service and the Immigration and Naturalization Service (INS) have principal responsibility along U.S. land borders. The Customs Service is empowered to assess and collect duties on legal imports, detect and confiscate contraband (including illicit drugs), and prevent and uncover (potential) terrorist activities. The INS regulates immigration, including identifying and apprehending illegal immigrants.

Since at least the 1930s, proposals to reorganize border management or realign agency jurisdictions have been suggested by Presidents, by officials in the Executive Office of the President, by various study commissions, by congressional committees, by the General Accounting Office, and by organizations in the private sector. One group of proposals calls for major consolidation of border management operations. 1/ A second group calls not for such comprehensive reorganization, but for major changes in operational arrangements, procedures, and authority. 2/ A third group is limited to relatively modest improvements in individual agencies and in interagency cooperation and coordination. 3/ To date, Congress has not approved proposals in either of the first two groups. 4/

Resolution of border management issues has been arguably impeded by controversy because of conflicts among the interests of the agencies involved, because of conflicts among policy goals, and because of issues about committee jurisdiction in Congress. Each of the seven agencies functions under its own statutory operating authority. The agencies are in different departments;

1/ E.g., President Hoover's 1930 and 1932 proposals to establish a unified border patrol; and a 1977 proposal from President Carter's Reorganization Project to create a consolidated Federal Border Management Administration.

2/ E.g., in 1983 both the Grace Commission and the Cabinet Council on Management and Administration recommended unifying the inspection operations of the two principal agencies at ports of entry.

3/ E.g., increased staffing and resources, expanded military assistance to civilian border inspection agencies, and improved intelligence gathering, processing, and availability.

4/ The bibliography in the appendix to this memorandum identifies documents containing some of the principal proposals.

the field agents are under the immediate supervision different officials and in different chains of command; and their agents' training requirements, pay, and opportunities for promotion are governed by different criteria. Each agency also has other duties or is connected with other activities in its parent department that arguably would be adversely affected if major changes were made. In addition, the goal of improving port-of-entry inspection and border patrol by making them more thorough, rigorous, and comprehensive might be incompatible with such other policy objectives as reducing governmental expenditures or expediting the entry of international visitors and travelers. Finally, proposals for change could affect the distribution of congressional committee jurisdiction in legislative and oversight matters. Such a redistribution would affect committee relationships with the agencies involved and committee influence over subsequent legislation and policy developments.

DESCRIPTION OF TYPES OF PROPOSALS

Below are descriptions of some of the major proposals that would affect border patrol and inspection activities, drawn from the numerous studies and recommendations over the past half century.

Major Reorganizations

1. Border Management Administration. Some have suggested merging into a single agency all or most of the activities and functions of border management. This set of proposals calls for combining Customs, Immigration and Naturalization Service (or at least its border patrol and inspection components), the Coast Guard, the Animal and Plant Health Inspection Service, and possibly the Visa Office, along with relevant units of the Public Health Service and the Drug Enforcement Administration. Another version of this type of proposal, concentrating on land borders and ports of entry, would omit the

Coast Guard from the new organization. Other variations might leave the Visa Office in the State Department, since it does not have an operational involvement at the border.

A new Border Management Administration could be established as a bureau in either the Treasury or Justice Department or as an independent agency in the Executive Branch (similar, for example, to the status of the Enviornmental Protection Agency or Central Intelligence Agency). Behind a merger of this magnitude are numerous policy choices and judgements which would determine the specific agencies or units to be combined and the new administration's location in the Executive Branch.

2. Unified Border Patrol. It has also been proposed that a Unified Border Patrol be created from the existing border patrol and inspection units from INS, Customs, and the Coast Guard. The Unified Border Patrol would merge personnel and resources already exclusively or primarily devoted to these activities. It would be responsible for immediate, traditional law enforcement duties along U.S. borders and inspections at ports of entry and would be located in either the Justice or Treasury Department. Such an organizational arrangement might also include APHIS, because of the preponderance of its activities in port-of-entry inspection. It would recognize, however, the existing institutional affiliation of DEA, the Public Health Service, and the Visa Office, which would remain intact in their current departments.

Significant Changes in Operational Arrangements, Procedures, and Authority

1. Consolidation of Port-of-Entry Inspections. Proposals to consolidate the inspection operations of Customs and INS have been designed primarily to expedite inspection of international travelers and to reduce the duplication or overlap which arises from the dual inspection systems of Customs and INS.

Some proposals along these lines have also included APHIS, while others have border patrol and not just port inspection.

Such proposals, however, have varied significantly, since are based on different criteria to divide the inspection functions and other duties between Customs and INS, the two principal agencies. Distinctions have been made based on different types of ports of entry, inspection versus patrol activities, and the subjects of inspection.

Proposals based on inspection priorities have recommended that INS performed primary inspections at land ports of entry, with Customs serving as a secondary inspector there. This relationship would be reversed at air and sea ports of entry, with Customs serving as primary and INS as secondary inspectors.

Proposals based upon the two fundamental enforcement activities--inspection and patrol---have prescribed that Customs be the primary, if not exclusive, inspection force at all ports of entry, while INS would be the exclusive patrol force between ports of entry.

Proposals based upon the subjects of inspection have projected INS to be the primary inspector for incoming travelers and visitors at all ports of entry, with Customs as the secondary inspector for those travelers and as the exclusive inspection force for baggage and cargo.

2. Shared Authority and Enforcement Powers. Relying on an entirely different approach is the proposal to grant to INS, at least where it is the exclusive patrol or inspection force, the same search and seizure powers and same scope of enforcement as Customs. Reciprocally, Customs would acquire express authority to enforce immigration laws in comparable situations and would be empowered to conduct the enforcement operations that INS does at ports of entry or along the border. This would result in a cross-designation of Customs

and INS agents. Implementation of such a proposal would require a substantial amount of cross-training of personnel in each agency. This would be necessary to ensure that the personnel from each agency were familiar with the statutory mandates of the other agency, its inspection and patrol priorities, enforcement practices and procedures, specific police powers, and relevant statutory and constitutional controls placed on them.

3. Increased Powers for the Attorney General To Coordinate and Direct Interagency and Customs Service Operations. Other suggestions would grant the Attorney General additional authority to coordinate and direct interagency efforts either against drug smuggling or against illegal immigration.

Anti-drug smuggling proposals would build upon the new powers contained in the National Narcotics Act of 1984 (P.L. 98-473; 98 Stat. 2168-2170), which established a National Drug Enforcement Policy Board (NDEPB), composed of several agency heads, including the Secretary of the Treasury, and chaired by the Attorney General. The Act empowers the Chairman:

> to direct, with the concurrence of the head of the agency employing such personnel, the assignment of Government personnel within the United States Government in order to implement United States policy with respect to illegal drug law enforcement; [and] to provide guidance in the implementation and maintenance of policy, strategy, and resources developed [for the purposes of the enactment]. (98 Stat. 2169)

Some uncertainty, however, exists about the extent of this authority over the operations and activities of affected agencies. That is in part because the Attorney General, as NDEPB Chairman, has to obtain the concurrence of other agency heads to direct the activities of their personnel and because of the Act's specific prohibition that "the Board and the Chairman shall not interfere in the routine law enforcement or intelligence decisions of any agency . . . " (98 Stat. 2170) Additional legislation would be needed to create the position of a true "drug czar" with comprehensive operational authority over enforcement activities of agencies outside the Justice Department, such as Customs. 5/

New legislation would also be necessary to expand the Attorney General's operational authority in immigration control. This could build on his existing authority to confer enforcement powers on personnel in other departments, but which is subject to the consent of the department head (8 U.S.C. 1103).

Single-Agency and Modest Interagency Proposals

A multiplicity and variety of proposals exist to improve the effectiveness of border patrol and inspection, particularly by INS and Customs. The specific recommendations fit into three broad categories: Those calling for (1) an increase agency resources, (2) an end to or reduction in duplication of effort, and (3) an improvement in coordination between them and with other agencies, particularly with the Armed Forces. Although these suggestions are more restricted than either broad-scale or middle-range plans, they are not devoid of controversy, since they have the potential of conflicting with other values, objectives, and policy priorities. These proposals would:

--increase the quantity and quality of INS and Customs resources, particularly office facilities for inspections and transportation and communications equipment for patrols;

--increase the total number of inspectors and border patrol agents;

--relocate existing workforces to meet higher priority or higher demand areas;

--remove the salary differential between INS and Customs inspectors, by increasing the pay of INS inspectors;

--re-establish a Customs uniformed border patrol along the U.S.-Mexican border, at least on an experimental and limited basis;

5/ An earlier version of this legislation, S. 1787, 98th Cong., 2d Sess., would have given the head of such an office broader authority and greater enforcement powers than the final enactment.

--upgrade, expand, and extend cross-training of Customs and INS agents;

--establish routine arrangements, working agreements, and regular channels of communication with Armed Forces units which can provide surveillance, communications, and transportation assistance in anti-drug smuggling and other law enforcement duties along U.S. borders (under the 1981 amendments to the Posse Comitatus Act);

--increase the availability of appropriate military equipment and training for anti-smuggling activities over land borders, particularly air interceptors and radar surveillance equipment;

--expand the capabilities and increase the effectiveness of the National Narcotics Border Interdiction System (NNBIS), chaired by the Vice President; that could be accomplished by clarifying its relationship with the new National Drug Enforcement Board or possibly by augmenting NNBIS's coordinative role under instructions from the Board and its Chairman, the Attorney General;

--improve the availability, accessibility, and use of tactical intelligence regarding drug smuggling; that could be accomplished by further centralizing intelligence analysis and processing at the El Paso Intelligence Center (EPIC), improving the quality and currency of EPIC's intelligence, and developing NNBIS's role in intelligence gathering; and

--increase INS's effectiveness in drug enforcement by improving its training and coordination with DEA, similar to the way the Attorney General has established new working relationships between DEA and the Federal Bureau of Investigation.

SUMMARY

The foregoing has highlighted a wide range of varied proposals to improve and augment border patrol and inspection operations, focusing principally on the U.S. Customs Service and Immigration and Naturalization Service. This memorandum, however, includes no attempt to evaluate or assess the feasibility of such proposals which date to 1930 and which reflect important differences in policy choices, enforcement priorities, and basic objectives or goals.

I trust that this information meets your needs. If I can be of further assistance, please call me at 287-8682.

FK/jcd

APPENDIX: SELECTIVE BIBLIOGRAPHY ON BORDER PATROL AND INSPECTION

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DRUG CONTROL AT THE FEDERAL LEVEL: COORDINATION AND DIRECTION

Harry Hogan
Specialist in American National Government
Government Division

September 16, 1987

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ABSTRACT

Federal Government efforts to curb illicit drug traffic and use involve some three dozen agencies. How best to coordinate and make the most of this complex endeavor continues to be an issue of major interest to Congress. Critics of the current Administration's anti-drug program contend it needs a more effective central mechanism for the formulation of general policy as well as for the broad direction of operations. A bill expected to be approved by the Senate Judiciary Committee is designed to remedy the perceived lack, through establishment of an agency with explicit authority to coordinate and direct all Federal undertakings for the control of drug abuse. The bill is one in a line of proposals to create what has come to be termed a "drug czar". These measures are opposed by the Reagan Administration on the grounds that such a position is both unnecessary and potentially disruptive; the version enacted during the 98th Congress, establishing a drug policy board chaired by the Attorney General, was the result of a compromise acceptable to the President.

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DRUG CONTROL AT THE FEDERAL LEVEL: COORDINATION AND DIRECTION

I. IMMEDIATE BACKGROUND

Some time during the 100th Congress, the Senate Judiciary Committee is expected to take up the so-called "drug czar" bill, S. 789, introduced by the committee chairman (Sen. Biden). Entitled the "National Narcotics Leadership Act," the bill would create a new agency to coordinate Federal anti-drug efforts. The head of the agency, to have cabinet rank, would be designated the Director of National Drug Control Policy and would be granted authorities intended to give him essential control over the drug control activities of the numerous Federal agencies so engaged.

As introduced, the bill provides that the Director of the new office would be responsible for "coordinating the overall direction of United States policy, resources, and operations with respect to drug control and abuse."[1] Among his specified authorities would be the development of budgetary priorities and allocations "in concert with other governmental entities."[2] He would be empowered to direct each department or agency with responsibility for drug control to carry out the policies he establishes, "consistent with the general authority of each agency or department."[3] He would be required to submit to

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[1] S. 789, 100th Congress; sec. 1 (b)(3).

[2] Ibid., sec. 4 (c)(4).

[3] Ibid., sec. 4 (e). Other language of the bill makes him responsible for, and authorizes him to --

(continued...)

Congress annually a "National and International Drug Control Strategy." The National Drug Policy Board, the current coordinating mechanism for Federal anti-drug efforts, would be terminated.

The bill was introduced by Senator Joseph R. Biden, Jr., and has a number of co-sponsors. In essence it is substantially similar to a proposal passed by Congress in 1982 and included in a bill vetoed by President Reagan.[4] The "czar" provisions were the principal cause of the veto.

In a memorandum of disapproval concerning the vetoed bill, the President wrote:

> The creation of another layer of bureaucracy within the Executive Branch would produce friction, disrupt effective law enforcement, and could threaten the integrity of criminal investigations and prosecutions--the very opposite of what its proponents apparently intend.[5]

The Administration's central position, which remains unchanged since the 1983 veto, is that it is neither necessary nor desirable to turn aside from the regular departmental form of government in order to deal with any particular problem or carry out any particular mission. In its view--one with which the

---

[3] (...continued)

"(1) develop, review, implement, and enforce United States Government policy with respect to drug control and abuse;

(2) direct and coordinate all United States Government efforts to halt the importation, manufacture, distribution, and use of illicit drugs within the United States;

(3) direct and coordinate all United States Government efforts and programs to reduce the demand for illicit drugs through education, prevention, research and treatment."

[4] H.R. 3963, 97th Congress. Pocket veto--Jan. 14, 1983.

[5] U.S. President, 1981- (Reagan). Public Papers of the Presidents of the United States. 1983. Memorandum Returning Without Approval a Bill Concerning Contract Services for Drug Dependent Federal Offenders, January 14, 1983. Washington, U.S. Govt. Print. Off., 1984. P. 49.

proponents of the drug czar proposal disagree--the answer to the drug control coordination problem has already been found, in the structure known as the National Drug Policy Board, chaired by the Attorney General.[6]

The view that sufficient coordination and central direction are achieved under the present system is challenged in a report recently issued by the House Committee on Government Operations.[7] Finding that Federal anti-drug efforts continue to be "characterized by overlapping jurisdictions, uncertain leadership, and 'turf battles' that frustrate the success of many . . . programs,"[8] the Committee specifically charges that the National Drug Policy Board has "failed to adequately perform the three major responsibilities which Congress intended."[9] Moreover, according to the report, the structure of the Board is inappropriate to the task at hand:

(1) The relationships between components of the Board are uncertain.

(2) The Board relies on the reaching of a consensus to resolve difficult issues.

As a result, the Committee concludes, "agency disputes have been left to simmer, the Board has left budget duties unfulfilled, and federal policy is often unclear."[10]

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[6] In testimony before the Senate Judiciary Committee on May 14, 1987, Attorney General Edwin Meese III provided a full statement of the Administration's opposition to the "czar" proposal as well as a description of the structure and actions of the National Drug Policy Board. See Appendix C of this report for excerpts from this statement.

[7] U.S. Congress. House. Committee on Government Operations. The National Drug Policy Board: a Failure in the War on Drugs. Twelfth Report... Washington, U.S. Govt. Print. Off., 1987 (June 25). (House Report 100-184).

[8] Ibid., p. 6.

[9] Ibid., p. 2. As outlined in the report, the three responsibilities are (1) the coordination between agencies of anti-drug abuse activities and the settling of inter-agency disputes; (2) the allocation of resources to the agencies involved in those activities and; (3) the development and implementation of policy with regards to the war on drugs. (p. 7)

[10] Ibid., p. 2.

II. HISTORICAL PERSPECTIVE

For at least 100 years, the Federal Government has in some manner been active in efforts to curb the non-therapeutic use of dangerous drugs. Beginning in 1887, with enactment of a law that forbade the importation of opium into the United States by subjects of the Emperor of China, a long series of statutes has created a major central government role in the regulation of drug commerce and in the enforcement of other restrictions designed to prevent the abuse of drugs.

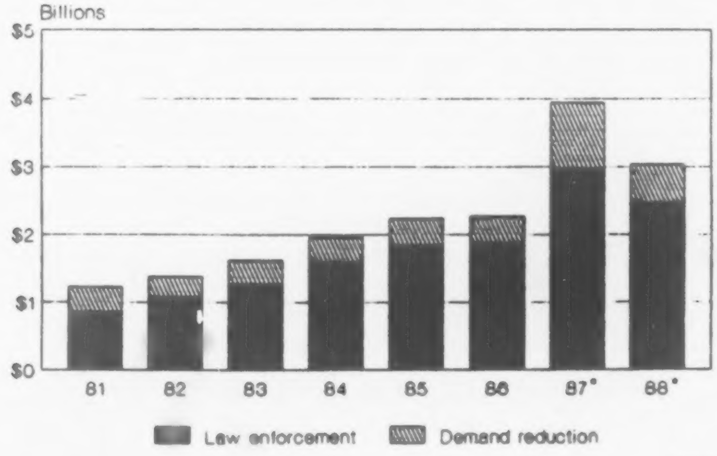
As a matter of course, the responsibility for administering and enforcing Federal drug control laws has been divided. Since many of the most restricted drugs enter the country from abroad, the agencies charged with policing the national borders--the Customs Service, the Coast Guard, and the Border Patrol--have important parts to play in enforcement. Regulation of the domestic drug industry is the province of both the Drug Enforcement Administration (DEA) and the Food and Drug Administration, while in addition the DEA has authority for the investigation of non-industry violations involving dangerous drugs, both at home and abroad.

Among other agencies with drug law enforcement responsibilities are: the Federal Bureau of Investigation (FBI); the Bureau of International Narcotics Matters in the State Department; the Federal Aviation Agency; the Internal Revenue Service; the Office of Justice Programs; the Agency for International Development; the Bureau of Alcohol, Tobacco and Firearms; the Bureau of Indian Affairs;, the Forest Service; and the Defense Department. Additionally, of course, there is the participation of the Criminal Division of the Justice Department, the U.S. Attorneys, the U.S. Marshals, and the Bureau of Prisons.

The other major category of Federal anti-drug efforts is concerned with reduction of demand for drugs, as opposed to reduction in supply. Principal agencies with demand reduction responsibilities are the National Institute on Drug Abuse, the Department of Education, the Veterans Administration, and the Defense Department.

Not only has the anti-drug effort come to involve a large number of agencies, but the overall level of funding has been increasing steadily and substantially, especially during the past twenty years. Spending for drug "law enforcement" rose from $37 million in FY 1969 to approximately $3 billion in FY87. The same years saw the initiation or significant increase of Federal programs to reduce the demand for drugs through treatment, rehabilitation, and prevention. (For the funding trend during the past eight years, see below, Chart 1: Drug Abuse Prevention & Control--Budget Authority, FY81-88.)

CHART 1. Drug Abuse Prevention & Control
Budget Authority, FY81-88



*Estimate

Source: Office of Management and Budget

The call for increased coordination of these proliferating and costly anti-drug activities is not unprecedented. As early as 1963, the Prettyman Commission found that drug law enforcement was hampered by the separation of the principal enforcement agencies--the Federal Bureau of Narcotics (FBN) and the Food and Drug Adminstration (FDA)--from the various structures of the Justice Department with which they needed to work.[11] After the FBN and the FDA's Bureau of Drug Abuse Control[12] were merged and transferred to Justice in 1968, complaints were raised about competition and a lack of cooperation between the new unit and the old Narcotics Bureau's sister agency in Treasury, the Customs Service. Further, in the late Sixties and early Seventies, as the Federal Government became more and more active in promoting treatment and prevention programs, there were increasing calls for coordination in those areas and for the elimination of redundancy.

It was in connection with treatment and prevention, or the so-called demand reduction programs, that the "overlord" system was first tried. This took place in 1971, under a structure established by former President Richard Nixon.

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[11] The President's Advisory Commission on Narcotic and Drug Abuse. Final Report. November 1963. Pp. 32-37. In reality, the notion that the enforcement of narcotics laws should be a responsibility of the Justice Department had been espoused by the First Hoover Commission in its 1949 report, with its recommendation that the Federal Bureau of Narcotics be transferred from Treasury to Justice (the Food and Drug Administration was not at that time involved in the control of so-called "dangerous drugs" to the extent to which it later became). The two commissions differed, however, in their views on the splitting of "enforcement" and "regulation"; the Hoover Commission thought the two aspects of drug control should be kept together, while the Prettyman Commission recommended separation, with regulation of the legitimate industry being charged solely to FDA.

[12] The Bureau of Narcotics had been in the Treasury Department since its inception, in 1920, as a division of the Prohibition Unit. The Bureau of Drug Abuse Control (BDAC) -- in what was at that time the Department of Health, Education and Welfare -- was established in 1966, as a division of the Food and Drug Administration, to enforce Federal statutes governing the commerce in so-called "dangerous drugs" (amphetamines, barbiturates, and the hallucinogens).

In conducting his "War on Drug Abuse," President Nixon was responsible for a number of initiatives. Among them was creation of the Special Action Office for Drug Abuse Prevention (SAODAP), headed by a director the press labelled a "drug czar." Placed in the Executive Office of the President, the agency was authorized to supervise all Federal drug abuse programs involving prevention, treatment, rehabilitation, and demand reduction research.

In initial White House discussions, it had been intended that the Nixon drug czar include law enforcement functions within the range of his concerns. However, the Justice Department and the Bureau of Narcotics and Dangerous Drugs argued persuasively that it would be impossible to find a person with the necessary stature in both the law enforcement and the treatment-prevention communities. It was further argued that of these two general areas the treatment-prevention side was at that time in greater need of central direction.

In 1972, the year following Presidential establishment of the new agency, Congress provided a statutory base, for a 3-year period, through the Drug Abuse Office and Treatment Act. Two key congressional findings noted in the legislation were as follows:

> The effectiveness of efforts by State and local governments and by the Federal Government to control and treat drug abuse in the United States has been hampered by a lack of coordination among the States, between States and localities, and throughout the Federal establishment.
>
> Control of drug abuse requires the development of a comprehensive, coordinated long-term Federal strategy that encompasses both effective law enforcement against illegal drug traffic and effective health programs to rehabilitate victims of drug abuse.[13]

---

[13] P.L. 92-255 (86 Stat. 65), Title I, sec. 101.

Although finding substantial support for the addition of law enforcement efforts to the coordinative jurisdiction of SAODAP, a fact reflected in the above findings, Congress acceded to the Administration view that the office should have no effective power over enforcement agencies. The exclusion of such authority continued to draw criticism during the years of the agency's operation.

In spite of the existence of SAODAP, conflicts and the lack of a unified objective remained in evidence; and in 1973, 2 years after the agency had been created, the National Commission on Marihuana and Drug Abuse found that in SAODAP's designated sphere of operation "the fragmentation of authority threatens to defeat its attempt to organize federal and state activities into an integrated response, under clear and understandable policy guidelines."[14]

In its detailed report, the National Commission described the development, during the preceding five years, of a "drug abuse industrial complex"--marked by "duplication of effort, uncertainty of direction and a lack of interagency coordination."[15] Above all, the Commission noted the emergence of a large Federal drug bureaucracy, "displaying the common propensity of bureaucratic infrastructures to turn short-term programs into never-ending projects."[16]

Despite the Commission's finding that, as of 1972, coordination and a unified policy continued to elude the government, the panel gave SAODAP credit for making progress in that direction. However, it recommended a far more radical approach to the problem than any previously proposed: the creation of a single agency with responsibility for all primarily drug-related functions, both for the formulation of policy and for actual day-to-day operations. The recommendation envisioned that the agency director would have sub-cabinet rank but would nevertheless report directly to the President.

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[14] Drug Use in America: Problem in Perspective. Second Report. Pp. 283-284.

[15] Ibid., p. 28 .

[16] Ibid., p. 282.

Although supporting the concept of a single drug control agency, suggesting that it be called the Controlled Substances Administration, the National Commission acknowledged that there were two alternatives:

(1) that the system in effect at the time might be continued "in the hope that SAODAP will more effectively utilize its statutory authority to bring some order out of administrative chaos" or

(2) that SAODAP could be retained but given specifically detailed program authority as well as the budgetary control it already had.[17]

The 3-year authorization for SAODAP expired in 1975, and the Ford Administration took the position that the agency's life should not be extended. The emergency situation justifying the extraordinary measure no longer existed, it was maintained, and therefore the business of directing Federal treatment and prevention efforts should be left to the National Institute on Drug Abuse, which had been established for that purpose by the same statute that created SAODAP. General policy concerning all drug matters was to be developed by several cabinet committees as well as by the Strategy Council on Drug Abuse, also created by the SAODAP law.

In spite of the Ford policy, SAODAP never entirely faded away. In 1976, Congress amended the SAODAP statute to establish a successor agency on a scaled-down basis.[18] Called the Office of Drug Abuse Policy (ODAP), the new organization was smaller than SAODAP and lacked its powerful tool of budget review.

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[17] Ibid., p. 290.

[18] P.L. 94-237, 90 Stat. 241.

President Ford, who was defeated in 1976 in his bid for re-election, declined to implement the ODAP amendment. In March 1977, his successor, President Jimmy Carter, nominated Dr. Peter Bourne for the vacant position of ODAP director. Dr. Bourne was confirmed by the Senate in late May and installed in office in June. A month later, President Carter submitted a plan for the reorganization of the Executive Office of the President,[19] which included a provision for the abolition of ODAP. The plan was not disapproved by Congress, and ODAP went out of existence in early 1978. In all, the successor agency to SAODAP was in operation for little more than a half-year.

After ODAP's demise, however, Dr. Bourne became a Presidential assistant for international health and drug abuse and, as such, oversaw the operations of a drug policy unit within the Domestic Policy Staff.[20] The Reagan Administration continued roughly the same arrangement, and in June 1982 the President issued an Executive order[21] officially designating the unit the "Drug Abuse Policy Office" (DAPO), and naming a director (Dr. Carlton Turner) to be "primarily responsible for assisting the President in formulating policy for, and in coordinating and overseeing, international as well as domestic drug abuse functions by all Executive agencies."

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[19] Reorganization Plan No. 1 of 1977, 91 Stat. 1633.

[20] After Dr. Bourne's resignation, in mid-1978, the unit was supervised by the former deputy director of ODAP, Lee Dogoloff.

[21] U.S. President, 1981- (Reagan). Public Papers of the Presidents of the United States. 1982. Executive order No. 12368 -- Drug Abuse Policy Functions. Washington, U.S. Govt. Print. Off., 1983. P. 814.

Despite the broad mandate of the 1982 Executive order, the role of DAPO remained relatively limited. At the same time, the Reagan Administration was creating a number of other new mechanisms specifically for the coordination and direction of (1) interdiction efforts and (2) the investigation and prosecution of high-level trafficking organizations.[22]

On January 14, 1983, as noted above, President Reagan exercised a pocket veto on an omnibus crime control bill passed during the closing hours of the 97th Congress.[23] His principal objection to the measure was that it contained a provision for another "drug czar" office, to be known as the "Office of the Director of National and International Drug Operations and Policy." The agency, the director and deputy director of which were to be subject to Senate approval, would have been authorized to--

> (A) develop, review, implement, and enforce U.S. Government policy with respect to illegal drugs;
>
> (B) direct and coordinate all U.S. Government efforts to halt the flow into, and sale and use of illegal drugs within the U.S.;
>
> (C) develop in concert with other Federal entities concerned with drug control the budgetary priorities and allocations of those entities with respect to illegal drugs; and

---

[22] The South Florida Task Force, made up of a number of Federal, State, and local law enforcement agencies for the purpose of combatting illicit drug traffic in southern Florida, was established in January 1982. In October of the same year, the President announced the creation of the Organized Crime Drug Enforcement Task Force (OCDETF) Program, consisting of 12 regional groups for the investigation and prosecution of major trafficking cases. In March 1983, he announced creation of the National Narcotics Border Interdiction System (NNBIS), expanding the South Florida group concept to embrace a five-region nationwide program. All of these initiatives were designed to provide a coordinated, multi-agency concentration on the particular tasks specified.

[23] H.R. 3963, 97th Congress. Pocket veto -- Jan. 14, 1983.

> (D) coordinate the collection and dissemination of information necessary to implement U.S. policy with respect to illegal drugs.

In vetoing the bill, the President argued that coordination was being achieved under the current system. This view was at odds with the findings of an investigatory team of the General Accounting Office, set forth in a report to Congress six months later.[24] Focussing on interdiction, the GAO found that that although the level of cooperation among the principal agencies had been growing, the fragmentation of authority and responsibility "has a certain amount of inefficiency and interagency conflict built in."[25] In particular, the GAO pointed out, "congressional oversight and executive branch resource allocation decisions relative to drug interdiction are difficult under these circumstances."[26] Accordingly, the agency recommended that the President--

> -- direct the development of a more definitive Federal drug strategy that stipulates the roles of the various agencies with drug enforcement responsibilities and
>
> -- make a clear delegation of responsibility to one individual to oversee Federal drug enforcement programs.[27]

Armed with the GAO findings, congressional supporters of the "czar" concept resumed their campaign and in late 1983 steered bills through both the

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[24] U.S. Comptroller General. Federal Drug Interdiction Efforts Need Strong Central Oversight. Washington, U.S. Govt. Print. Off., 1983. 136 p. (GGD-83-52)

[25] Ibid., p. ii.

[26] Ibid., p. iii.

[27] Ibid., p. v.

House and Senate Judiciary Committees.[28] The Senate version was attached by the Senate to a supplemental appropriations bill, but the provisions were dropped in conference.

In 1984, as a provision of an omnibus crime control bill[29], Congress passed a measure establishing the National Drug Enforcement Policy Board. This move was the result of a compromise worked out between the Adminstration and pro-"czar" forces in Congress. The character of the Board, consisting of cabinet-level officials under the chairmanship of the Attorney General, was conceptually consistent with the Adminstration's position on departmental government.

On March 26, 1987, President Reagan issued an Executive order[30] creating the National Drug Policy Board. In effect, the order expanded the mandate of the existing Enforcement Policy Board to embrace all aspects of the Federal anti-drug effort. The Attorney General remains the chairman, and the Secretary of Health and Human Services is designated vice-chairman.[31] It is required by the order that the Board establish a Drug Enforcement Coordinating Group and a

---

[28] S. 1787 (S. Rept. 98-278) and H.R. 4028. The House bill, which would have reestablished the Office of Drug Abuse Policy in the Executive Office of the President but would have allowed appointment of the Vice President as Director, was cleared by the House Judiciary Committee but not by a second committee to which it was referred.

[29] The Senate passed an amended version of S. 1787 on February 2, 1984, and the provisions were included in the crime control title (Title II: the Comprehensive Crime Control Act of 1984) of H.J. Res. 648, providing for continuing appropriations for Fiscal Year 1985.

[30] Executive order 12590. Federal Register, vol. 52, no. 60, March 30, 1987.

[31] Other Board members include: the secretaries of State, Defense, Treasury, Transportation, Education, Energy, Labor, Housing and Urban Development, Interior, and Agriculture; the directors of Central Intelligence and the Office of Management and Budget; and representatives from the offices of the President and of the Vice President.

Drug Abuse Prevention and Health Coordinating Group. The membership and chairman of each Coordinating Group are designated by the Chairman of the Board.[32]

The Policy Board is generally charged with facilitating the development and coordination of national drug control policy and with the coordination of all anti-drug activities of executive branch agencies. It is required to review, evaluate, and develop U.S. Government policy, strategy, and resources for such activities, including questions of budgetary priority.[33] It is further charged with facilitating the resolution of differences concerning interagency activities or any other matters affecting two or more agencies.

On May 22, 1987, one of the first major actions of the reconstituted board was approval of a directive designating lead agencies in all the principal areas of the anti-drug effort, as indicated in the table on the following page (Table 1, "Lead Agencies in Federal Anti-Drug Efforts").

On announcing the lead agency directive, Attorney General Edwin Meese said, "The designation of lead agencies will further improve coordination throughout the government and enable us to achieve maximum impact with our resources."[34]

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[32] A fairly detailed description of the current operating organization of the Board and the coordinating groups, including a list of subcommittees and their chairmen, was provided by the Attorney General in testimony before the Senate Judiciary Committee on May 14, 1987. The Statement also summarized recent Board activities.

[33] The order provides, however, that nothing therein "shall be deemed to affect the authorities or responsibilities of the Office of Management and Budget, or any Office or official thereof."

[34] U.S. Department of Justice; Office of the Attorney General; Press Release of May 30, 1987.

III. ALTERNATIVES TO A DRUG CZAR

If it is true that Federal drug control efforts suffer to any substantial degree from a lack of coordinated policies and goals, is a super-agency--i.e., an office headed by a drug "czar"--the only solution? Other ways of approaching this problem have been conceived, and in some instances tried, during the past ten years.

First, the legislation[35] that established SAODAP also created a Strategy Council, comprised of (1) the department and agency heads with the greatest interest in the drug problem, (2) the SAODAP director, (3) other officials "as the President may deem appropriate," and (4) appropriate members of the public. The mandate of the Council, which was terminated by statute in 1984,[36] was to develop a "comprehensive, coordinated long-term Federal strategy for all drug abuse prevention functions and all drug traffic prevention functions" of any agency of the Federal Government. The strategy was to be reviewed and revised at least once a year. It was intended to cover both broad policy objectives and operational matters.

The case could be made that the Strategy Council fulfilled, or could have fulfilled, much of the broad policy-making function of a drug czar. The same could be said of the similar undertaking by the National Drug Enforcement Policy Board, the first results of which were published in January 1987 ("National and International Drug Law Enforcement Strategy"). However, the question remains: after a strategy has been framed and promulgated, who will follow up? Those who support the super-agency idea maintain that continual monitoring and direction are required to see that a grand strategy is implemented and the less general policy decisions made, as required, in a fashion to insure overall balance and effectiveness.

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[35] P.L. 92-255, 86 Stat. 65.

[36] Prior to repeal, only one strategy--for 1982--had been prepared under the Reagan Administration. Participation was limited to government agencies.

A second alternative, offering a limited approach, is embodied by the Drug Enforcement Administration (DEA). Established by Reorganization Plan No. 2 of 1973, the agency was intended by President Nixon to be the final answer to those who at the time were charging that enforcement was in disarray due to inter-agency rivalries and lack of cooperation. Absorbing the manpower of three separate organizations, along with all Customs personnel specializing in drug law enforcement, DEA was meant to provide a "unified command" in the "counteroffensive" against drug abuse.[37] Despite this move (which did not affect the narcotics control efforts of the State Department or the Coast Guard), rivalry problems have continued, according to many observers. In the past, most often cited as the biggest trouble area was the relationship between DEA and Customs; more recently the rivalry of Customs and the Coast Guard, for position in the vastly expanded interdiction program, has been the central concern.

The third coordinating mechanism that has been tried--by Presidents Nixon, Ford, and Reagan--is the inter-department committee. The Ford Administration argued against the extension of SAODAP on the grounds that the agency had achieved its purpose as an emergency measure and therefore that it should give way to normal institutional structure and procedure. To the contention that a permanent White House-level agency was necessary to give the anti-drug effort the needed "clout," the Administration answered that if this line were followed with respect to every important Federal undertaking, there would be an overwhelming number of such agencies. Furthermore, it was held that a more effective and appropriate way to achieve coordination was the one recommended by a special task force of the President's Domestic Council in the fall of 1975 and subsequently taken by President Ford: creation of a Cabinet Committee on Drug Abuse Prevention and a Cabinet Committee on Drug Law Enforcement.[38]

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[37] Reorganization Plan No. 2 of 1973, 87 Stat. 1091.

Growing out of the two cabinet committees created by President Ford was the so-called "Principals Group," comprised of the chiefs of the operating agencies having the greatest responsibility for drug abuse control. The group was at one time given high marks for resolving conflicts and promoting cooperation, especially among the enforcement agencies. (An expanded version of the Principals Group functions under the aegis of the National Drug Policy Board, in the form of two coordinating groups, one concerned with law enforcement and one with prevention and health.)

In its early years, the Reagan Administration established its own versions of the cabinet committee: the Cabinet Council on Legal Policy, chaired by the Attorney General, and the Cabinet Committee on Organized Crime, also chaired by the Attorney General. The National Drug Enforcement Policy Board, now expanded and renamed the National Drug Policy Board, is essentially the same kind of entity but one with a narrowed focus, a statutory base, and more explicit authorities.

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[38] U.S. Domestic Council. Drug Abuse Task Force. White Paper on Drug Abuse. Washington, The Task Force, 1975. (See esp. Chapter 5, "Program Management")

The two committees were modeled on the Cabinet Committee for International Narcotics Control, created by President Nixon, which the Domestic Council task force evaluated as "quite successful" (p. 92, footnote).

President Reagan has also created a number of lower-level mechanisms designed to provide coordination for specific drug control efforts. A task force to combat illicit traffic in South Florida, headed by Vice President Bush, was the first of these. Announced in early 1982, the group was composed of Federal, State and local agencies. Growing out of that venture, generally regarded as successful, were two other task force programs, both of nationwide reach.

The Organized Crime Drug Enforcement Task Force (OCDETF) program, operative as of January 1983, is considered the major Federal program for investigation and prosecution of drug trafficking violations. Working under the general supervision of a U.S. Attorney, each of the 13 regional groups in the program is headed by an Assistant U.S. Attorney designated the "Task Force Coordinator." Investigators include representatives from the Drug Enforcement Administration, the FBI, the Internal Revenue Service, the Customs Service, and the Bureau of Alcohol, Tobacco and Firearms. The coordinator is charged not only with guiding the efforts of the participating Federal agents but also with securing cooperation from, and providing it to, State and local law enforcement agencies.

In March 1983, the White House announced the start of a new nationwide drug interdiction program headed by Vice President Bush. The National Narcotics Border Interdiction System (NNBIS) was charged with coordinating the work of all Federal agencies that have responsibilities for interdiction of drugs illegally imported from abroad--principally, the Customs Service, the Coast Guard, and the armed services.

A less dramatic but time-honored mechanism for resolving conflict or achieving concerted action in pursuit of specific goals is the simple interagency agreement. Such accords have been drawn up, from time to time, between a number of the principal drug law enforcement agencies.

Execution of a formal agreement is not the only way in which agencies with common or overlapping responsibilities handle conflict. Harold Seidman and Robert Gilmour offer the following description of the routine ways in which such business is done:

> By overemphasizing coordinative machinery, we have created the false impression that most federal activities are uncoordinated. This is by no means the case. Without informal or so-called lateral coordination, which takes place at almost every stage in the development and execution of national programs and at every level within the federal structure, the government would probably grind to a halt. Skilled bureaucrats develop their own informational networks. Managers who are motivated by a desire to get things done find ways and means of bridging jurisdictional gaps.[39]

Finally, as noted above, in 1973 the National Commission on Marihuana and Drug Abuse recommended what is perhaps the most extreme approach to the problem of achieving coordination of anti-drug efforts: the concentration of all such efforts in a single agency, under a cabinet-level administrator.[40] This notion is echoed in the recent report, mentioned above, of the House Committee on Government Operations. The difference is that the Committee does not call for creation of a new agency but the gathering of all [major] drug law enforcement agencies into a single existing department.[41]

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[39] Seidman, Harold, and Robert Gilmour. Politics, Position, and Power: From the Positive to the Regulatory State. Fourth ed. New York, Oxford University Press, 1986. P. 225.

[40] National Commission on Marihuana and Drug Abuse, Drug Use in America, p. 293-294. The Commission suggested that the new agency might be called the Controlled Substances Administration.

[41] The Committee's recommendation is contingent; the move is endorsed only if the Policy Board "proves unable to assume a more forceful and efficient leadership role." The proposal raises interesting questions: would the Justice Department be the appropriate choice; if so, would the Coast Guard and a large

(continued...)

IV. EVALUATIONS OF OTHER MAJOR DRUG CONTROL COORDINATION EFFORTS, PAST AND CURRENT

The drug control coordination structure tried in the past that was most comparable to the proposed "czar" office is the Special Action Office for Drug Abuse Prevention (SAODAP), operative from 1971 to 1975. Although appraisals of the agency have been made by both Members of Congress and executive branch officials, none present a very clear picture. In one of the few available outsider assessments, a political scientist (writing in 1981) examined the agency as an example of a specific style of Presidential management. While noting certain early successes, G. Larry Mays pointed to an eventual failure to meet original expectations.[42] The reason, he argued, was an apparent loss of confidence in the first SAODAP director, Dr. Jerome Jaffe, by influential Presidential aides and thus, presumably, also by the President.

Observing that President Nixon displayed a strong interest in the drug problem, Mays noted that Dr. Jaffe's contact man in the Nixon White House was Egil ("Bud") Krogh, a trusted high-level aide who could guarantee the SAODAP director ready access to the President. However, Mays stated, "after Jaffee wavered on the matter of replacing Dr. [Bertram] Brown of the National Institute of Mental Health, Krogh was no longer his contact and he was

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[41] (...continued)
segment of Customs be transferred to that department? Or do proponents of the move have the Treasury Department in mind? If the latter, and the Drug Enforcement Administration and the Coast Guard were re-located in Treasury, it would signal a return to the general situation prevailing prior to 1967, when the Bureau of Narcotics, the Coast Guard and the Customs Bureau were all housed together in that department. What then would become of the involvement of the FBI, a development of recent years, is yet another question presented by the plan.

[42] The Special Action Office for Drug Abuse Prevention: Drug Contro' During the Nixon Administration. International Journal of Public Administration, v. 3, 1981: 355-372.

relegated to dealing with one of the many junior aides in the White House."[43] This, Mays concluded, marked "an end to Jaffe's effective contact with the President and consequently a loss of influence."[44] Under the next director, Robert DuPont, the agency was moved physically out of the Executive Office of the President (EOP) and located in Rockville, Maryland, and was generally perceived as further diminished in terms of its impact on the decision-making process.

Professional employees of the agencies directly responsible for dealing with the drug problem offer varying informal evaluations of SAODAP. While many appear to welcome any move that highlights the drug problem and that projects the image of a higher level of priority, others express the doubt that any formal entity, such as SAODAP or the proposed drug czar office, can accomplish what is intended. According to the latter, to the extent that there indeed remain coordination difficulties after all of the consolidating moves of the past 10 years, what is needed is not a new overlord office but rather (1) a definite and sustained interest in the problem on the part of the President and (2) one high-level Presidential aide who has access to the President, to monitor the operating agencies and to bring important conflicts to the President's attention. One veteran enforcement official has commented privately, "We've already had a drug czar, the only kind that works, and that was Bud Krogh." (See above.)

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[43] Ibid., p. 367.

[44] Ibid.

On a lower level, the General Accounting Office has investigated and reported on both the Organized Crime Drug Enforcement (OCDE) Task Force program [45] and the coordination of interdiction efforts by NNBIS[46].

While intended to serve as coordinating mechanisms, the OCDE task forces are in fact "an affiliation of independent agencies," according to the GAO, and have "no single leader with the authority to direct operations."[47] Pointing to a number of fundamental disagreements over working relationships within the task forces, the GAO says Justice Department officials have acknowledged that "OCDETF's flexible structure and consensus decisionmaking process make it difficult to resolve problems."[48] The GAO sees the " lack of centralized authority at the national level" as complicating this process.[49] In its comments on the GAO report, the Justice Department noted that the conclusions seemed to be based on the assumption that only through strict national oversight can the OCDE program be made to work optimally. However, according to both Justice and Treasury, such a contention runs counter to one of the program's underlying purposes: to decentralize control over large drug investigations and prosecutions so that the "field" will have the authority to pursue cases and allocate resources as needed.[50] As for NNBIS, the GAO investigated it in 1984-1985 and reported that although the concept of the agency was sound, the results had been minimal. The GAO also concluded that the relationship of NNBIS to the Drug Policy Board was unclear.[51]

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[45] U.S. Comptroller General. Drug Investigations. Organized Crime Drug Enforcement Task Force Program: a Coordinating Mechanism. Washington, U.S. Govt. Print. Off, 1986. 46 p. (GAO/GGD-86-73BR)

[46] U.S. Comptroller General. Coordination of Federal Drug Interdiction Efforts. Washington, U.S. Govt. Print. Off., 1985. 20 p. (GGD-85-67).

[47] U.S. Comptroller General, Drug Investigations, p. 1.

[48] Ibid., p. 1-2.

[49] Ibid., p. 2.

[50] Ibid., pp. 33, 40-42, 45.

In another look at the interdiction side, the Office of Technology Assessment's 1987 report contained the finding that responsibilities of the Federal drug interdiction agencies are "fragmented and overlapping":

> The lack of a suitable institutional framework is a major impediment to the adoption and effective use of technologies, particularly command and control systems that could offer significant benefits. With the exception of special intensive operations, problems with interagency coordination and cooperation occur and no central authority addresses important strategic questions on priorities and resource allocation.[52]

Finally, as summarized above (I. "Immediate Background"), the House Committee on Government Operations has examined the National Drug Policy Board and found to be ineffective its "consensus" approach to the resolution of conflict.[53]

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[51] U.S. Comptroller General, Coordination of Federal Drug Interdiction Efforts, pp. 1, 6-7. NNBIS is headed by the Vice President, who is not a member of the Policy Board. The GAO notes that the location of NNBIS in the Office of the Vice President "may limit the Board's ability to oversee and coordinate drug interdiction."

[52] U.S. Congress, Office of Technology Assessment, Border War on Drugs, p. 3.

[53] For a defense of the Policy Board, see Appendix C, containing excerpts from testimony of Attorney General Edwin Meese before the Senate Judiciary Committee, May 14, 1987.

V. DISCUSSION

The debate on drug czar proposals reflects disagreement over the effectiveness and suitability of various ways of coordinating related multi-agency efforts. Neither side in this debate denies the need for coordination, both in policy-making and in operations, but each has its own view of how it is best achieved.[54]

Essentially, the opponents of the czar concept see it as hostile to the fundamental structure of our Federal Government. Under this structure, Congress assigns legal authority and responsibility to various departments and agencies along reasonably coherent jurisdictional lines; when areas of responsibility overlap, these opponents argue, the appropriate mechanism for achieving coordination is one of a cabinet council nature, such as the existing National Drug Policy Board. In this view, coordination should, and can, be achieved through the persuasion provided by good leadership, backed up ultimately by the presidential power. A special "overlord" agency or super-department depreciates the system, they contend, and creates an ambiguous division of authority and accountability. Further, critics say, none of the problems that have arisen is unsusceptible to solution under a committee approach. Moreover, many assert, some things which have generated the calls for a czar, such as competition among the agencies, can be energizing; if you eliminated these elements altogether, you might lose more than you gain. Finally, they maintain that criticism of the Drug Policy Board has exaggerated its shortcomings and overlooked its accomplishments.

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[54] A focussed discussion would likely also reveal disagreement as to what the term means. Seidman and Gilmour discuss the definition problem as follows:

> The term coordination is used in laws and executive orders as if it had a precise meaning. Yet probably no word in our administrative terminology raises more difficult problems of definition. For James D. Mooney, coordination is no less than "the determining principle of organization, the form which contains all other principles, the beginning and end of all organized effort." Coordination is also defined as concerted action, animated by a common purpose, responding to recognized signals and utilizing practiced skills. Coordination describes both a process--the act of coordinating--and a goal: the bringing together of diverse elements into a harmonious relationship in support of common objectives. . . .
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> In current usage, coordination has come to be identified primarily with the formal processes by which we attempt to adjudicate disagreements among agencies. (Politics, Position, and Power; p. 224)

On the other side, proponents have been dissatisfied with the cabinet councils and inter-agency structures tried in the past. Likewise, though in 1984 accepting the Drug Policy Board in lieu of a "czar," they are skeptical of the ability of that entity to provide the necessary leadership. While many may agree the czar solution violates the logic of the departmental system, they make the case that the drug problem is special, that the dimensions of the threat and the necessary complexity of the government's response demand a departure from "business as usual." They hold that only an individual with the power of direction, with authority to allocate resources as well as to oversee actual operations, can successfully overcome inherent bureaucratic impediments to coordination of agency efforts.

In rejecting the National Drug Policy Board as an adequate embodiment of the needed elements, overlord proponents argue that (1) the Board's chief (the Attorney General) can not devote full time to the drug problem, and (2) the consensus approach to the adoption of policy and resolution of conflict, an approach inherent in the nature of an interagency or cabinet committee, frequently results in impasse and in any case can require an inordinate length of time to realize. Collegiality, in this view, begets inertia.

The search for coordination in government has become a familiar preoccupation of our era. Among the very few authorities to write on the subject, Seidman and Gilmour call it the twentieth-century equivalent of the medieval quest for the philosopher's stone.[55] "If only," they write, in depicting the belief that informs this search, "we can find the right formula for coordination, we can reconcile the irreconcilable, harmonize competing and wholly divergent interests, overcome irrationalities in our government structures, and make hard policy choices to which no one will dissent."[56]

The coordination quest springs from the frustration of policy-makers with the increasing complexity of government and with intractable problems such as drug abuse. Seidman and Gilmour provide the following description of the typical pattern of such a quest--"whether we are dealing with poverty, science, telecommunications, or international and national security programs":

> . . . (1) establishment of an interagency committee chaired by an agency head and with no staff or contributed staff; (2) designation of a "neutral" chairman and provision for independent staff; and (3) transfer of coordinating functions to the White House or Executive Office of the President, establishment of a special presidential assistant, and reconstitution of the interagency committee as a presidential advisory council.[57]

The Federal Government of the latter half of the twentieth century is an enormously complex edifice. Few missions it undertakes do not involve some overlapping of authority and responsibility distributed among several agencies. Conflict is therefore an integral feature. The principal options for resolving such conflict are (1) the inter-agency committee, which has been called the "crabgrass in the garden of government institutions,"[58] (2) executive order or interagency agreement, with respect to specific problems, on a case-by-case basis,[59] (3) consolidation of the agencies or groups in question, or (4) an overlord agency, with the authority to direct the operating agencies in the use of their statutorily granted powers.

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[55] Seidman and Gilmour; Politics, Position, and Power; p. 219.

[56] Ibid.

[57] Ibid., p. 220.

[58] Ibid., p. 226.

Consolidation, as exemplified by the creation of the Bureau of Narcotics and Dangerous Drugs in 1968 and of the Drug Enforcement Administration in 1973, involves the actual transfer of authority. In establishing a coordinating agency, however, powers are not taken away from one entity and given to another; in some sense, not entirely clear, they are to reside in both.

Ultimately, in trying to answer the question "Do we need a drug czar?," the Congress is faced with a series of additional questions, both theoretical and practical. Is the general principle sound? Does the concept of a super-agency, which would coordinate and direct a group of operating agencies having some common function, do violence to the essential logic of Executive Branch departmental structure? Is that structure sacrosanct, or does the growth of the White House Staff and the EOP in recent years indicate that in many respects it has already been found wanting?[60] Does such centralization of power upset a system of checks and balances developed through many years of law-making and congressional oversight? Does establishment of an entity with coordinating powers over operating agencies, which themselves retain statutory authorities and responsibilities, create legal accountability problems?

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[59] In testimony before the Senate Subcommittee on Intergovernmental Relations, in 1966, then Bureau of the Budget Director Charles L. Schultze argued that this is the preferred approach (Creative Federalism, Part I: "The Federal Level", p. 399).

[60] Creation of the Bureau of the Budget and its successor, the Office of Management and Budget, might also be seen as weakening the departmental system.

To solve a coordination problem in any area, is there a better and more appropriate alternative to the super-agency, such as a cabinet committee or other similar inter-agency mechanism? Alternatively, have such arrangements been fruitful in the past? Does better operational coordination necessarily mean greater centralization? Or is the task force concept, as exemplified by the Organized Crime Drug Enforcement program and Narcotics Border Interdiction System, a more effective approach? Assuming that there are indeed exceptional problems that warrant creation of a super-agency, is drug abuse one of them?

Are the present organizations and arrangements, under the lead of the National Drug Policy Board, working or not? Has each of them had time sufficient to demonstrate its potential? Can any office such as the one proposed be successful if the President in office is not in sympathy with the idea? On the other hand, if it is the responsibility of Congress to create effective governmental institutions that will survive the preferences and style of a particular administration, is a drug czar office so essential that those preferences should be discounted?

APPENDIX A: CHRONOLOGY

05/22/87 -- The National Drug Policy Board approved a directive designating lead agencies in the principal areas of the Federal anti-drug program. The major contest for such designation, in the interdiction segment generally, was won by the Customs Service, but the Coast Guard was named lead agency in marine interdiction and co-lead in air interdiction.

05/12/87 -- The Administration complied with the Anti-Drug Abuse Act provision requiring recommendations for legislation to reorganize the Executive branch "to more effectively combat drug traffic and abuse. A letter to congressional leaders pointed out the recent creation of the National Drug Policy Board and the impending directive to designate lead agencies in the principal areas of anti-drug effort; it had been concluded, according to the letter, that "no further legislation is needed in this regard."

03/26/87 -- President issued an Executive order placing the responsibility for all Federal anti-drug programs--including those having to do with treatment or prevertion--in one Cabinet level board, to be known as the National Drug Policy Board, with the Attorney General as chairman, and the Secretary of Health and Human Services as vice chairman.

01/05/87 -- President's Budget for FY88 was released. The request for all functions relating to drug abuse prevention and control was estimated to total approximately $3 billion, reflecting a $900 million reduction from the FY87 level (which had been increased by at least $1.7 billion over the original FY87 request, through appropriations authorized under the Anti-Drug Abuse Act of 1986). It reflects reductions caused by the omission of non-recurrent expenditures authorized for 1987, such as certain capital improvement items, as well as a decision to discontinue a program of State drug law enforcement grants and to halve the level of support for Department of Education prevention grants.

10/27/86 -- The President signed into law (P.L. 99-570) the omnibus drug control bill passed in the closing hours of the 99th Congress. The legislation, which touches upon virtually every aspect of the nation's anti-drug effort, includes a provision requiring the President to make recommendations to Congress, within 6 months, for legislation to reorganize the executive branch "to more effectively combat drug traffic and abuse."

08/14/86 -- The Attorney General announced a major new cooperative effort -- Operation Alliance -- to combat drug trafficking along the U.S.-Mexican border. The program calls for an additional 600 Federal agents at the border; it is expected to require at least two years to become fully operational.

10/12/84 -- The President signed H.J.Res. 648 into law (P.L. 98-473).

10/10/84 -- The House and Senate both agreed to the conference report on H.J.Res. 648 (Continuing Appropriations, FY85), which contained the contents of S. 1787 as passed by the Senate and as included by the House in a bill passed on Oct. 2.

02/07/84 -- The Senate passed an amended version of S. 1787, reflecting a compromise acceptable to the Reagan Administration. In lieu of a new agency headed by a drug control overlord, the approved bill creates a "National Drug Enforcement Policy Board," a cabinet committee under the chairmanship of the Attorney General.

11/15/83 -- The drug "czar" and drug commission provisions of the Senate-passed supplemental appropriations bill were dropped by the House-Senate conference committee.

10/26/83 -- The Senate added the contents of S. 1787, a so-called "drug czar" bill, to H.R. 3959, a supplemental appropriations bill that was subsequently passed by the Senate on Oct. 27. Also added was a proposal to create a "Commission on Drug Interdiction and Enforcement."

09/15/83 -- The House Subcommittee on Crime approved a clean bill to amend Title II of the Drug Abuse Office and Treatment Act for the purpose of recreating the Office of Drug Abuse Policy in the Executive Office of the President (EOP). Deputy Directors both for Drug Enforcement and for Drug Abuse Prevention would be appointed under the bill's provisions. An amendment accepted in subcommittee mark-up would allow the President to name the Vice President as Director. The bill was introduced Sept. 29 as H.R. 4028.

08/04/83 -- An altered version of the Administration omnibus crime control bill was reported by the Senate Judiciary Committee (S. 1762). A separate bill to establish a "drug czar" office was also reported (S. 1787).

03/23/83 -- The White House announced the creation of a new drug interdiction group headed by Vice President Bush. The National Narcotics Border Interdiction System (NNBIS) was charged with coordinating the work of Federal agencies that have responsibilities for interdiction of sea-borne, air-borne and across-border importation of narcotics and other dangerous drugs -- principally the Customs Service, the Coast Guard, and the armed services.

01/14/83 -- President Reagan withheld his approval of H.R. 3963 (97th Congress), thus exercising a pocket veto. He was especially critical of a provision establishing a "drug czar" office to coordinate Federal drug law enforcement.

12/20/82 -- A scaled-down version of the Violent Crime and Drug Enforcement Improvement Act (H.R. 3963, 97th Congress) was cleared for the President. It contained provisions for the creation of a so-called "drug czar" office to coordinate Federal drug law enforcement.

10/14/82 -- The President announced a major new drive against illicit drug trafficking. Subsequently designated the Organized Crime Drug Enforcement (OCDE) task force program, the move involved creation of 12 regional task forces for the coordinated, multi-agency investigation and prosecution of major trafficking cases. It was anticipated to require the hiring of 1,200 new investigators and prosecutors.

06/24/82 -- By Executive order the President established the Drug Abuse Policy Office in the Office of Policy Development (EOP) for the purpose of performing the duties specified under Title II of the Drug Abuse Office and Treatment Act. According to the order, the Director of the Office would be "primarily responsible for assisting the President in formulating policy for, and in coordinating and overseeing, international as well as domestic drug abuse functions by all Executive agencies." Dr. Carlton Turner, the President's senior advisor on drug abuse policy, was appointed Director.

01/29/82 -- The President announced creation of the Cabinet Council on Legal Policy, to be chaired by the Attorney General. The Council was charged with the review of matters pertaining to interdepartmental aspects of law enforcement policy, with an initial emphasis on narcotics enforcement and immigration and refugee policy. Subsequently, the Council formed the Working Group for Drug Supply Reduction, under the chairmanship of the Associate Attorney General.

01/28/82 -- President Reagan announced the establishment of a special task force to combat illicit drug traffic in South Florida. Composed of officials from a number of Federal agencies, to work with State and local authorities, the task force was placed under the direction of Vice President Bush.

01/21/82 -- The Federal Bureau of Investigation was given concurrent jurisdicion, with the Drug Enforcement Administration, over the enforcement of dangerous drug laws. Under the new arrangement, the DEA is required to report to the Attorney General through the FBI Director.

07/00/81 -- Dr. Carlton Turner was appointed as President Reagan's "senior advisor on drug abuse policy."

03/00/78 -- The Office of Drug Abuse Policy (ODAP) was terminated. ODAP Director Peter Bourne was designated a presidential assistant for international health and drug abuse and, as such, supervised the operation of a unit of the Domestic Policy Staff charged with formulation of policy on matters pertaining to drug abuse. This arrangement was continued under his successor, Lee Dogoloff.

07/15/77 -- President Carter submitted Reorganization Plan No. 1 of 1977 to Congress. The plan proposed a reorganization of the Executive Office of the President, one aspect of which was abolition of the Office of Drug Abuse Policy.

06/00/77 -- Dr. Peter Bourne took office as the director of ODAP, having been previously confirmed by the Senate.

03/00/77 -- President Carter announced that ODAP would be established and that the Federal Drug Abuse Strategies would be "revitalized."

04/27/76 -- A presidential "Drug Abuse Message to the Congress" announced the creation of the Cabinet Committee on Drug Law Enforcement (CCDLE) and the Cabinet Committee on Drug Abuse Prevention, Treatment and Rehabilitation (CCDAPTR). Modeled on the Cabinet Committee on International Narcotics Control, established by President Nixon (see below), the two committees were charged with the development and implementation of overall Federal strategy and the strengthening of interagency coordination.

03/19/76 -- Amendments to the Drug Abuse Office and Treatment Act became law. Among other things, they provided for the establishment of a successor agency to SAODAP, to be known as the Office of Drug Abuse Policy (ODAP), on a scaled-down basis, to be known as the Office of Drug Abuse Policy (ODAP). Subsequently, President Ford declined to implement the legislation and proposed a rescission of appropriations for the proposed agency.

00/00/76 -- The House Select Committee on Narcotics Abuse and Control was established, for the purpose of studying and reviewing, from a unified perspective, the problem of narcotics abuse and its control. The initial panel included members from all standing committees with jurisdiction over significant aspects of drug abuse control.

06/30/75 -- The Special Action Office for Drug Abuse Prevention statutory authorization expired. The Ford Administration declined to support extension.

00/00/73 -- The Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) was established in the Department of Health, Education, and Welfare -- comprised of three institutes of equal status: the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse. The new agency was subsequently authorized by statute (Title II of P.L. 93-282).

00/00/73 -- The Drug Enforcement Administration was established by Reorganization Plan No. 2 of 1973. To create the new Justice Department agency, the Bureau of Narcotics and Dangerous Drugs was combined with the Office for Drug Abuse Law Enforcement, the Office of National Narcotics Intelligence, and all Customs Service personnel principally involved in drug law enforcement.

03/21/72 -- The President approved the Drug Abuse Office and Treatment Act, among the provisions of which were those (1) providing statutory backing for the Special Action Office for Drug Abuse Prevention, with specific authorities and appropriation authorizations for three fiscal years, at the end of which the agency was to be terminated, (2) establishing a Strategy Council, to be appointed by the President, for formulation and continual revision of a "comprehensive, coordinated long-term Federal strategy for all drug abuse prevention functions and all drug traffic prevention functions conducted, sponsored, or supported by any department or agency of the Federal Government." (3) further expansion of Federal treatment and prevention grant programs, including initiation of a program of formula grants to the States, and (4) establishment of a National Institute on Drug Abuse, within the National Institute of Mental Health, to administer all programs and authorities of the Secretary of Health, Education, and Welfare with respect to drug abuse prevention functions.

06/00/71 -- President Richard Nixon appointed Dr. Jerome Jaffe, a psychiatrist, as a special consultant to the President for narcotics and dangerous drugs and in a Message to Congress announced the establishment of the Special Action Office for Drug Abuse Prevention, located within the Executive Office of the President, to coordinate and broadly direct all Federal drug-abuse programs concerned with prevention, education, treatment, rehabilitation, training and research.

10/15/68 -- The President signed P.L. 90-574, which contained amendments to the Community Mental Health Centers Act establishing the first program of Federal grants specifically for funding the treatment of narcotic addiction.

00/00/68 -- Under Reorganization Plan No. 1 of 1968, the Bureau of Narcotics (Treasury) and the Bureau of Drug Abuse Control (FDA) were combined into the Bureau of Narcotics and Dangerous Drugs in the Justice Department.

11/00/63 -- The President's Advisory Commission on Narcotic and Drug Abuse ("Prettyman Commission") issued its final report. Among recommendations was one that the President appoint a Special Assistant for Narcotic and Drug Abuse, from the White House staff, to provide continuous advice and assistance in launching a coordinated attack on drug abuse.

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APPENDIX C: NATIONAL NARCOTICS LEADERSHIP ACT. STATEMENT INTRODUCING S. 789, 100TH CONGRESS, BY SENATOR JOSEPH R. BIDEN, JR. CONGRESSIONAL RECORD, MARCH 19, 1987: S 3527-S 3529

Epidemiological studies indicate that lung function tends to decrease as the ambient ozone concentration increased. These studies have demonstrated that at a constant level of exposure, lung decrement continues as a function of exposure time. Thus, unlike many of the other air pollutants which trigger a short-term reaction, in the case of ozone, lung damage continues throughout the length of exposure.

Particularly disturbing are results from a health study indicating that children exposed to ozone levels of 0.12 ppm for 4 days while attending day camp, experienced lung function changes that did not return to normal for 1 week after the exposure incident. Finally, it appears that in people with asthma, the rates of attack correlate with levels of ozone. The persistent nature of health effects caused by ozone calls for a 1-hour standard and a 6-hour standard to be set at a level which protects health with an adequate margin of safety.

Since 1982, health research data has indicated that the 1-hour standard for sulfur dioxide is too lax. Health effects data indicated direct effects occurring at levels as low as 0.1 ppm.

During February of this year, the Clean Air Scientific Advisory Committee completed its review of the 1986 addendum to the 1982 staff paper on sulfur dioxide.

The Clean Air Advisory Scientific Committee found a majority of committee members believe that the effects reported in the clinical studies of asthmatics represent effects of significant public health concern.

It was the committee's conclusion that a large, consistent data base exists to document the bronchoconstructive response in mild to moderate asthmatics subjected in clinical chambers to short-term, low levels of sulfur dioxide while exercising. A majority of the committee found that the scientific evidence supporting the establishment of a new 1-hour standard is stronger than it was in 1983. There was strong but not unanimous support for a new 1-hour standard for sulfur dioxide exposures.

But whether or not a 1-hour sulfur dioxide standard will be promulgated by the Administrator is less than clear. The health data provided strong and convincing evidence in support of a tighter standard in 1982 but the Administrator failed to set one. Rather, the Agency opted for more study and no actions.

It is apparent, that for the Clean Air Act to get back on track and to once again begin to take steps to protect public health, Congress must mandate a review of the ambient standards.

Similar to sulfur dioxide and ozone, the Environmental Protection Agency has had a small particulate standard under review for quite some time. The Agency has set a timetable to move forward with this standard. The small particulate standard is included in this legislation to encourage EPA to complete its review of a small particulate standard. There is a clear need for a small particulate standard because small particulates are capable of setting deep into the lung. The CASAL review completed in July of last year reaffirmed the need for a small particulate standard.

Protection of people and the environment was the overriding reason for enacting the Clean Air Act in 1970. Criteria documents are the foundation of the act. These documents are as important today as they were when the law was passed. The legislation I am introducing today will insure that health research continue to form the basis in setting standards and that standards be set at a level to protect public health.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 787

"(3) Not later than nine months after the enactment of this subsection, the Administrator shall promulgate an additional national primary ambient air quality standard for photochemical oxidants (ozone) that is consistent with subsection (b) and that is based on concentrations over a rolling average period of not more than six hours, unless, based on the criteria issued under section 108(e), the Administrator finds that there is no significant evidence that such a standard for such a period is requisite to protect public health.

"(f)(1) Not later than three months after the enactment of this subsection, the Administrator shall publish revised air quality criteria for sulfur dioxide.

"(2) Not later than nine months after the enactment of this subsection, the Administrator shall promulgate a national primary ambient air quality standard for sulfur dioxide for a one hour period that is consistent with subsection (b) [and that is more stringent in effect than the national primary ambient air quality standard for sulfur dioxide in effect as of February 1, 1987]. In the event the Administrator fails to promulgate a national primary ambient air quality one hour standard for sulfur dioxide in accordance with this paragraph by the date nine months after the enactment of this subsection, on and after such date there shall be a national primary ambient air quality one hour standard for sulfur dioxide which shall be 0.2 parts per million of sulfur dioxide.

"(g)(1) Not later than three months after the enactment of this subsection, the Administrator shall publish revised air quality criteria for particulates.

"(2) Not later than nine months after the enactment of this subsection, the Administrator shall promulgate a national primary ambient air standard for fine particulates that is consistent with subsection (b) and that is more stringent than the national primary ambient air quality standard for particulates in effect as of February 1, 1987.".●

By Mr. BIDEN (for himself, Mr. DeConcini, Mr. Chiles, Mr. Byrd, Mr. Nunn, Mr. Leahy, Mr. Kerry, Mr. Heflin, Mr. Metzenbaum, Mr. Moynihan, Mr. Dodd, Mr. Pryor, Mr. Ford, Ms. Mikulski, Mr. Melcher, Mr. Matsunaga, Mr. Bingaman, Mr. Rockefeller, Mr. Sasser, Mr. Kennedy, Mr. Levin, Mr. Pell, Mr. Simon, Mr. Hollings, Mr. Mitchell, Mr. Graham, Mr. Cranston, Mr. Inouye, Mr. Fowler, and Mr. Lautenberg):

S. 789. A bill to provide the framework necessary to pursue a coordinated and effective national and international narcotics control policy; to the Committee on the Judiciary.

NATIONAL NARCOTICS LEADERSHIP ACT

● Mr. BIDEN. Mr. President, in the final days of the last session, Congress responded to what I consider the most pressing social problem facing this Nation: drug abuse. And while this legislation, the Anti-Drug Abuse Act of 1986, contained many important provisions—including tough new criminal penalties, more funds for drug law enforcement, and a nationwide commitment to education and treatment—it failed to provide one critical component: a framework for leadership.

Today, I am introducing legislation that we will soon consider in the Judiciary Committee that would place the responsibility for leading the Federal Government's struggle against drug trafficking and abuse with one Cabinet level official. This proposal, commonly referred to as the "drug czar," has been previously considered by both Houses of Congress and has passed by overwhelming majorities.

The need for action is clear. Yesterday, the Office of Technology Assessment released a comprehensive study of our interdiction efforts along the border. Among its major findings: First, responsibilities of the Federal drug interdiction agencies are fragmented and overlapping, and second, data on drug smuggling, the trafficking system and interdiction activities are inadequate for effective planning and management. In 1983, the General Accounting Office released a study calling for stronger central oversight in the Drug Control Program. I have recently asked GAO to update their review of the overall drug policy of the Federal Government by focusing on the National Drug Enforcement Policy Board, which is supposed to be the top-level office for drug policy. In a recent hearing I discussed this with the Attorney General who continues to argue that the Policy Board is making the tough decisions on our drug strategy. I disagree and one only needs to look at what happened yesterday.

In hearings before the Permanent Subcommittee on Investigations when Coast Guard Commandant Paul Yost and Customs Commissioner William von Raab bickered openly about which ageny was supreme in our Drug Interdiction Program. Right now, both agencies are conducting marine and air interdiction programs, often in conflicting directions. No official, not the Attorney General, not the President, no one has sat down and said "the Coast Guard is doing this, and the Customs Service is doing that." Let's face it, there's a finite amount of money that can be spent on drug control. The difficult decisions involve where to spend it and through which agencies. The hearings yesterday pointed out that no one is making these decisions in the interdiction area and as a result our drug control dollars are being wasted as agencies continue their petty turf battles and bureaucratic rivalries.

Or we can look at the broader issue of priorities, goals, and objectives in the Federal Drug Control Program. One only need to look at the President's budget proposal for fiscal year 1988 to see the problem

For several years now we have recognized that rigorous law enforcement alone will not solve the drug problem. Despite the valiant efforts of police departments across this country, we have come to realize that we must also attack the demand side of the equation if we are to solve America's drug habit. The President, the Attorney General, and the Administrator of the Drug Enforcement Administration, have recognized this.

One would think, therefore, that the President's budget would reflect the priority we have attached to educating our children about drugs and treating those who have already fallen prey to the lure of narcotics.

Unfortunately, the budget reflects a full scale retreat from the commitment Congress signaled in the passage of the Anti-Drug Abuse Act last session. In the new budget, education and prevention programs have been slashed $200 million—a-40 percent reduction.

The question begs itself—why the disparity between our actions and our rhetoric?

I submit the answer lies in the fact that there is a vacuum in leadership in the struggle against drug abuse. Simply put, there is no single official in charge of the Federal struggle against drug trafficking and abuse in America. The budget is only the most recent example. Each agency head is only interested in pursuing their own narrow agenda. The Secretary of the Treasury oversees the Customs Service and the Internal Revenue Service, both of which play a major role in enforcing our Federal drug laws. Should we expect him to forego an increase in his budget to finance drug education initiatives? Of course not.

The fact is that there is no single person responsible for making these difficult decisions, not only in the budget process, but in all phases of the struggle against drugs. We all want to look like the tough guy against drugs. We want tough penalties and more DEA agents and more pushers going to prison. And who could argue with that? I can't. I have drafted laws to do just that.

But as I mentioned before, the answer does not lie in a blind devotion to drug law enforcement alone. The answer lies in education of our children and treating those who are addicted to drugs. The problem is that these initiatives are not very popular. Addicts are not a powerful constituency.

And that's precisely the point. That's where leadership comes into play. Treatment and education programs may not be popular, but that's what we need to do. And I submit, that if there was one person who Congress and the American people could hold responsible for stemming the tide of drug abuse in America that the President's budget would look a lot different in regard to drug control spending. Because 5 years down the road we could measure if this official had been successful. This official would have the incentive to implement effective programs, not just those that are politically popular.

The National Narcotics Leadership Act would provide a framework for effective leadership in this area.

This act would place the responsibility for leading the Federal Drug Control Program. Cabinet level status is essential if this person is to have the clout necessary to end the bureaucratic infighting and petty agency turf battles that consistently have undermined the Federal Drug Control Program.

This official would be responsible for developing and implementing the U.S. Government's policy with respect to illegal drugs. Specifically, this official would be responsible for developing a longrange national and International Drug Control Strategy—a blueprint for action for the Federal Government and this country to follow in our struggle against drug abuse—with our priorities explicitly spelled out. Along these lines, this official would have the responsibility to plan program budgets with respect to drug programs. This authority is necessary to avoid the very type of budget problems I have described previously.

And for the first time in the history of our efforts to control drug trafficking and abuse in this country—which date back over 100 years—one official would have the authority to coordinate both law enforcement and demand reduction programs.

This bill is substantially similar to past versions I have introduced in the Senate. In fact this legislation has passed the Senate on two separate occasions. Like the bills introduced in 1982-83, The National Narcotics Leadership Act would create a Cabinet level officer to coordinate and implement the Federal Drug Control Program. Unlike past versions, however, this bill also includes a crucial forfeiture provision that was included in the Senate passed version of the Anti-Drug Abuse Act, but was dropped in the final informal conference with the House.

This provision would provide that the proceeds from all forfeiture actions, after the payment of agency expenses, would be channeled directly back to drug control initiatives, including both Federal and State/local initiatives and both demand reduction and law enforcement programs. In this way, every available resource would be marshaled in our struggle against drug abuse in America.

As I mentioned previously, this drug coordination proposal has passed the Senate on two separate occasions, most recently in 1983 on a vote of 63 to 33. Twice before the Members of this body have recognized the merit of this legislation and have cast their vote to send this bill to the President.

During the debate on this bill, several of my colleagues approached me and asked whether I thought this bill would really make a difference. They asked, "If the President hasn't supported this bill in the past, do you really think it will work." This is a very good question, and it shows the desire of my colleagues to seek effective approaches to the drug problem.

And my answer then was this: even with this mechanism, if the President doesn't vest this person with the political clout necessary to make the hard budget decisions and the difficult policy choices necessary to respond to the drug crisis, then it won't work. The President must demonstrate the political will to take on the bureaucracies to make our drug program work.

But without this mechanism, even if the President really wanted to achieve a comprehensive, long term strategy the existing structure would be insufficient. Each of my colleagues knows how entrenched the bureaucracy can become. Without some central, coordinating mechanism in place, with the statutory and political authority to do the job, each agency will continue to pursue its own narrow agenda, with little or no concern for the effectiveness of the overall program.

In sum, there is an acute lack of leadership in the Federal Drug Control Program. The National Narcotics Leadership Act would provide one-half of the answer to this problem. It would provide the statutory mechanism necessary to develop and implement a long term, comprehensive Drug Control Program.

The other half of the answer must come from outside Congress. The political authority must come directly from the President, so that one single official will have the authority to make the difficult budgetary and policy decisions that must be made. And, more importantly, the authority to see these decisions through.

I can assure my colleagues that this legislation will receive swift and thorough review in the Judiciary Committee and I am confident that you will once again see the merit of this legislation. But most of all, I hope the President will see the merit of this proposal as well.

I ask unanimous consent that the bill and accompanying articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 789

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Narcotics Leadership Act of 1987".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress hereby makes the following findings:

(1) The flow of narcotics into the United States is a major and growing problem.

(2) The problem of illegal drug activity and drug abuse falls across the entire spectrum of Federal activities, both nationally and internationally.

(3) Illegal drug trafficking is estimated to be a $100,000,000,000 a year industry in the United States.

(4) The annual consumption of heroin in the United States remains in the range of four metric tons, sustaining one-half a million addicts, while cocaine consumption has increased sharply, with approximately five million to six million Americans using cocaine regularly.

(5) Drug abuse poses a threat to our most precious resource, our young people; with almost two-thirds of the graduating high school class of 1985 having used an illicit drug and 17 percent having used cocaine, the highest rate ever recorded since the survey has been taken.

(6) Such significant indicators of the drug problem as drug-related deaths, emergency room visits, hospital admissions due to drug-related incidents, and addiction rates are soaring.

(7) Increased drug trafficking is strongly linked to violent, addiction-related crime and studies have shown that over 90 per centum of heroin users rely upon criminal activity as a means of income.

(8) Much of the drug trafficking is handled by syndicates which results in increased violence and criminal activity because of the competitive struggle for control of the domestic drug market.

(9) Any effective solution to the Nation's drug problem must involve a comprehensive approach from all levels of government, combining rigorous law enforcement and supply reduction initiatives with efforts to reduce the demand for drugs through education, research, and treatment.

(10) The magnitude and scope of the problem requires a Director of National Drug Control Policy with the responsibility for the coordination and direction of all Federal efforts by the numerous agencies.

(11) Such a director must have broad authority and responsibility for making management, policy, and budgetary decisions with respect to all Federal agencies involved in attacking this problem so that a unified and efficient effort can be made to eliminate the illegal drug problem.

(b) PURPOSE.—It is the purpose of this Act to ensure—

(1) the development of a national policy with respect to drug abuse and control;

(2) proper direction and coordination of all Federal agencies involved in the effort to implement such a policy; and

(3) that a single, competent, and responsible high-level official of the United States Government, who is appointed by the President, by and with the advice and consent of the Senate, and who is accountable to the Congress and the American people, will be charged with the responsibility of coordinating the overall direction of United States policy, resources, and operations with respect to drug control and abuse.

SEC. 3. ESTABLISHMENT OF OFFICE.

(a) ESTABLISHMENT OF OFFICE.—There is established in the executive branch of the Government an office to be known as the "Office of the Director of National Drug Control Policy" (hereafter in this Act referred to as the "Office of the Director").

(b) DIRECTOR AND DEPUTY DIRECTORS.—(1) There shall be at the head of the Office of the Director, a Director of National Drug Control Policy (hereafter in this Act referred to as the "Director").

(2) There shall be two deputy directors of the Office of Director (hereafter in this Act referred to as the "Deputy Directors") as follows:

(A) A Deputy Director for Demand Reduction to be responsible for prevention, treatment, research, and private sector initiatives; and

(B) A Deputy Director for Drug Law Enforcement to be responsible for domestic drug law enforcement, border interdiction, and international narcotics control programs.

The Deputy Directors shall assist the Director in carrying out the Director's functions under this Act.

SEC. 4. APPOINTMENT AND DUTIES OF THE DIRECTOR AND DEPUTY DIRECTORS.

(a) APPOINTMENT.—(1) The Director and the Deputy Directors shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The Director and the Deputy Directors shall each serve at the pleasure of the President. No person may serve as Director or a Deputy Director for a period of more than four years unless such person is reappointed to that same office by the President, by and with the advice and consent of the Senate. No person shall serve as Director or a Deputy Director while serving in any other position in the Federal Government.

(3) The Director shall be entitled to the compensation provided for in section 5312 of title 5, United States Code. The Deputy Directors shall be entitled to the compensation provided for in section 5314 of title 5, United States Code.

(b) FUNCTION OF DIRECTOR.—The Director shall serve as the principal director and coordinator of United States operations and policy on drug control and abuse.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall have the responsibility, and is authorized to—

(1) develop, review, implement, and enforce United States Government policy with respect to drug control and abuse;

(2) direct and coordinate all United States Government efforts to halt the importation, manufacture, distribution, and use of illicit drugs within the United States;

(3) direct and coordinate all United States Government efforts and programs to reduce the demand for illicit drugs through education, prevention, research and treatment;

(4) develop in concert with other governmental entities budgetary priorities and budgetary allocations of entities of the United States Government with respect to drug control and abuse;

(5) prepare a National and International Drug Control Strategy as provided in section 5; and

(6) coordinate the collection and dissemination of information necessary to implement United States policy with respect to drug control and abuse.

(d) POWERS OF DIRECTOR.—In carrying out his responsibilities under subsection (c) the Director is authorized to—

(1) direct, with the concurrence of the Secretary or Director of the Cabinet level agency employing such personnel, the temporary reassignment of Government personnel within the United States Government in order to implement United States policy with respect to drug control and abuse;

(2) procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for the grade of GS-18 of the General Schedule;

(3) accept and use donations of property from all Government agencies; and

(4) use the mails in the same manner as any other department or agency of the Executive Branch.

(e) AUTHORITY OF DIRECTOR.—Notwithstanding any other provision of law, the Director shall have the authority to direct each department or agency with responsibility for drug control to carry out the policies established by the Director consistent with the general authority of each agency or department.

(f) INTELLIGENCE AUTHORITY.—Notwithstanding any other provision of law, the Director shall undertake no activities inconsistent with the authorities and responsibilities of the Director of Central Intelligence under the provisions of the National Security Act of 1947, as amended, or Executive Order 12333.

(g) GENERAL SERVICES ADMINISTRATION SUPPORT.—The Administrator of General Services shall provide to the Director on a reimbursable basis such administrative support services as the Director may request.

SEC. 5. PREPARATION AND SUBMISSION OF NATIONAL AND INTERNATIONAL DRUG CONTROL STRATEGY

(a) DEVELOPMENT AND SUBMISSION OF THE DRUG STRATEGY.—(1) The Director shall submit to the Congress, within 180 days after the date of enactment of this Act, and on February 1st of each year thereafter, a full and complete National and International Drug Control Strategy (hereafter in this section referred to as the "Drug Control Strategy"). If necessary, sections of the Drug Control Strategy that involve classified information may be presented to Congress in closed proceedings.

(2) The Drug Control Strategy shall be a forward looking blueprint for the Federal Government and the Nation to follow in reducing drug abuse, and shall contain projections for program and budget priorities and realistic and achievable projections for drug seizures, availability, purity, and drug usage for the next five years.

(3) Commencing with the second report, the Drug Control Strategy shall include a full and complete report reflecting accomplishments with respect to the United States policy and priorities in the previous year.

(b) GOALS AND PRIORITIES.—The Drug Control Strategy developed pursuant to subsection (a) shall include a full and complete list of goals and priorities in the areas of—

(1) international narcotics control;

(2) domestic and border drug law enforcement;

(3) reducing the demand for drugs, through education, prevention, treatment, and research; and

(4) cooperative efforts between the Federal and State and local governments in the area of drug control.

In addition, the Drug Control Strategy shall contain a full and complete assessment of

APPENDIX D: EXCERPT FROM TESTIMONY OF EDWIN MEESE III, ATTORNEY GENERAL, BEFORE U.S. SENATE COMMITTEE ON THE JUDICIARY, MAY 14, 1987, REGARDING COORDINATION OF NATIONAL DRUG POLICY AND STRATEGY

III. COMMENTS ON S. 789, THE DRUG CZAR BILL

THIS DRUG CZAR BILL IS A DRASTIC PROPOSAL WHICH WILL UNDO THE STEADY PROGRESS TOWARD IMPROVING DRUG POLICY AND STRATEGY DEVELOPMENT AND COORDINATION WHICH WE HAVE MADE WITH THE NATIONAL DRUG POLICY BOARD (NDPB), AND ITS PREDECESSOR, THE NATIONAL DRUG

ENFORCEMENT POLICY BOARD (NDEPB). THE NDEPB WAS CREATED A LITTLE OVER 2 YEARS AGO. THE LAW TOOK EFFECT IN JANUARY 1985 AND ITS FIRST MEETING TOOK PLACE IN APRIL 1985. THE NDPB WHICH EXPANDED JURISDICTION TO INCLUDE THE DEMAND SIDE WAS CREATED ON MARCH 26, 1987.

THE EFFORT TO DELINEATE AGENCY ROLES AND RESPONSIBILITIES HAS JUST STARTED TO BEAR FRUIT. THE DESIGNATION OF A LEAD AGENCY IN THE INTERDICTION COMPONENT OF OUR STRATEGY, TOGETHER WITH DETAILED ELABORATION ON OTHER AGENCY ROLES AND RESPONSIBILITIES, IS BEING FINALIZED AND WILL BE SUBMITTED TO CONGRESS. ALTHOUGH CONGRESSIONAL IMPATIENCE WITH THE EXECUTIVE BRANCH FOR NOT MAKING QUICKER PROGRESS IN OUR ANTI-DRUG EFFORTS IS UNDERSTANDABLE, WE SHOULD TAKE CARE NOT TO ACT RASHLY OUT OF THIS IMPATIENCE. WE NEED MORE TIME THAN WE HAVE BEEN GIVEN TO DATE.

WE MUST NOT LOSE SIGHT OF THE BOTTOM LINE THAT WE ARE NOW INTERDICTING MORE DRUGS, SEIZING MORE DRUGS, SECURING THE FORFEITURE OF MORE ASSETS, ARRESTING, PROSECUTING, AND CONVICTING MORE DRUG TRAFFICKERS, AND MORE ACTIVELY DISCOURAGING THE USE OF ILLEGAL DRUGS THAN EVER BEFORE.

IF YOU THINK THIS ADMINISTRATION HAS BEEN CUTTING BACK ON ITS WAR ON DRUGS, OR DEMONSTRATING INEFFECTIVENESS THEN YOU HAVEN'T BEEN LISTENING TO THE DRUG CULTURE SPOKESMEN OR THEIR SYMPATHIZERS, OR TO THE DRUG TRAFFICKERS AND THEIR DEFENSE ATTORNEYS. ASK THEM TO TELL YOU HONESTLY WHETHER THIS

ADMINISTRATION HAS MADE DRUG TRAFFICKING AND DRUG USE MORE DIFFICULT.

WE HAVE HEARD MUCH RECENTLY OF THE OLD CHARGE OF LACK OF COORDINATION IN OUR ANTI-DRUG EFFORTS, AND RESULTING TURF WARS BETWEEN THE AGENCIES. I THINK A WORD OF CAUTION TO YOU ON THAT SCORE IS IN ORDER.

DISAGREEMENTS BETWEEN AGENCIES WORKING IN THE SAME ARENA IS NOT UNCOMMON AND SHOULD NOT BE EQUATED WITH A BREAKDOWN IN COORDINATION. AGGRIEVED AGENCIES THEMSELVES MAY COMPLAIN OF A LACK OF COORDINATION AS A DEFENSE MECHANISM AGAINST A COMPETING AGENCY. WE MUST NOT OVERREACT TO THESE CHARGES, BUT INSTEAD LOOK BEHIND THEM TO SEE IF THEY HAVE ANY REAL SUBSTANCE. THE FACT OF THE MATTER IS THAT WE HAVE DECIDED NOT TO USE THE SINGLE AGENCY APPROACH TO THIS COMPLEX PROBLEM WHICH NATURALLY CUTS ACROSS SO MANY DIFFERENT JURISDICTIONS, AND AS WE ATTEMPT TO UTILIZE THE MANY AGENCIES WITH ALREADY EXISTING RESOURCES IN PLACE, YOU CAN BE SURE THAT THE COORDINATION JOB WILL NOT BE AN EASY ONE, BUT IT CAN BE DONE, AND IS BEING IMPROVED STEADILY.

IT IS A COMMON MISTAKE TO SEE ANY DISAGREEMENT AMONG LAW ENFORCEMENT OFFICERS AS A BREAKDOWN IN COORDINATION. THEY ARE MADE UP OF ACTIVE AND AGGRESSIVE PEOPLE. NO LARGE LAW ENFORCEMENT AGENCY EXISTS THAT HAS NOT EXPERIENCED DISAGREEMENTS AND JURISDICTIONAL DISPUTES WITHIN ITS OWN RANKS: THE HOMICIDE SQUAD OFTEN LOCKS HORNS WITH THE ROBBERY SQUAD AND SO ON. AND

OBVIOUSLY, DISPUTES AMONG DIFFERENT LAW ENFORCEMENT AGENCIES ARE EVEN MORE COMMON. OFTEN THIS REFLECTS A HEALTHY ESPIRIT DE CORPS, A SENSE OF COMPETITION AND SOME CHECKS AND BALANCES THAT STRENGTHEN LAW ENFORCEMENT. IN EVALUATING LAW ENFORCEMENT, THEREFORE, ONE MUST BE CAREFUL TO DISTINGUISH BETWEEN SPIRITED COMPETITION ON THE ONE HAND, AND LACK OF COORDINATION ON THE OTHER. WE HAVE MADE GREAT STRIDES IN COORDINATING FEDERAL DRUG ENFORCEMENT EFFORTS IN THE PAST SIX YEARS. TO CAST ALL OF THAT WORK ASIDE IN FAVOR OF A NEW APPROACH AT THIS LATE DATE WOULD BE THE HEIGHT OF FOLLY.

THE ADMINISTRATION STRONGLY OPPOSES THIS "DRUG CZAR" BILL. IT WOULD PROVE COUNTERPRODUCTIVE IN THE WAR ON DRUGS AND IS UNNECESSARY BECAUSE OF THE STEPS RECENTLY TAKEN BY THE PRESIDENT TO PROVIDE FOR COMPREHENSIVE AND EFFECTIVE COORDINATION OF DRUG POLICY WITHIN THE EXECUTIVE BRANCH, I URGE YOU TO CONSIDER THE FOLLOWING ADDITIONAL REASONS TO REJECT IT.

- WE ALREADY HAVE EFFECTIVE, INFORMED LEADERSHIP OF FEDERAL DRUG CONTROL EFFORTS. THE MEASURE WE SHOULD USE IS NOT A "WISH LIST" OF IDEAL POLICY BOARD ACCOMPLISHMENTS, BUT THE STATE OF DRUG POLICY COORDINATION THAT EXISTED IN 1980 WHEN WE CAME INTO OFFICE. THE NATIONAL DRUG ENFORCEMENT POLICY BOARD, CREATED BY THE COMPREHENSIVE CRIME CONTROL ACT OF 1984, HAS BEEN REASONABLY SUCCESSFUL IN COORDINATING THE REVIEW, EVALUATION, AND DEVELOPMENT OF UNITED STATES DRUG LAW ENFORCEMENT POLICY, STRATEGY, AND RESOURCES. WE ARE MAKING STEADY PROGRESS IN ESTABLISHING A MORE STRUCTURED AND DETAILED FRAMEWORK TO FACILITATE CENTRALIZED POLICY AND STRATEGY DIRECTION AND ENHANCED COORDINATION.

o THE PRESIDENT HAS ALREADY CONSOLIDATED BOTH DRUG DEMAND AND SUPPLY REDUCTION OVERSIGHT INTO ONE CABINET-LEVEL BODY. IN SHORT, THE NEW POLICY BOARD WILL ENHANCE GOVERNMENT EFFORTS TO CUT THE DEMAND FOR DRUGS WHILE MAINTAINING AND STRENGTHENING OUR LONG-RANGE DRIVE TO REDUCE THE SUPPLY OF DRUGS WITHOUT CREATING ADDITIONAL BUREAUCRACY.

o OUR CABINET STRUCTURE OF GOVERNMENT HAS SERVED THIS NATION WELL THROUGHOUT ITS HISTORY. THE DRUG CZAR WOULD UNDERMINE THIS SUCCESSFUL SYSTEM OF GOVERNMENT BY CREATING A "SUPER CABINET OFFICER", A SO-CALLED "DRUG CZAR" INTERPOSED BETWEEN CABINET MEMBERS AND THE PRESIDENT. THIS INTRUSION INTO THE DELIBERATIONS OF THE PRESIDENT'S SENIOR ADVISERS IS AS ILL-ADVISED AS IT IS UNPRECEDENTED. THE PRESIDENT SHOULD REMAIN FREE TO CONSULT WITH AND COORDINATE ACTIONS BY CABINET OFFICIALS IN ANY MANNER HE BELIEVES APPROPRIATE. FURTHERMORE, THE BILL PROVIDES THE DRUG-CZAR NO CLEAR ROLE AND THEREFORE HIS PRESENCE WOULD CONFUSE, DELAY AND MAKE MORE COMPLICATED THE EXECUTIVE'S EFFORTS TO COORDINATE DRUG POLICY.

- THE BILL DOES NOT PURPORT TO DISPLACE THE AUTHORITY OF CABINET OFFICIALS TO DETERMINE HOW BEST TO EXERCISE THEIR STATUTORY FUNCTIONS. THE BILL COULD NOT DELEGATE SUCH GENERAL AUTHORITIES TO THE "DRUG CZAR" WITHOUT SUBSTANTIALLY DAMAGING THE EFFECTIVE ADMINISTRATION OF OUR LAWS.

- THE BILL WOULD PURPORT TO AUTHORIZE THE DRUG CZAR TO "DIRECT" CABINET OFFICIALS TO CARRY OUT HIS POLICIES, BUT QUALIFIES THAT POWER BY REQUIRING THAT IT BE "CONSISTENT WITH THE GENERAL AUTHORITY OF EACH AGENCY OR DEPARTMENT." SUCH A PROVISION GUARANTEES DELAY AND BUREAUCRATIC IN-FIGHTING, TO THE DETRIMENT OF THE BATTLE AGAINST DRUGS. THE EXECUTIVE BRANCH SIMPLY CANNOT BE STRUCTURED IN THIS MANNER AND OPERATE EFFECTIVELY. THIS PRINCIPLE WILL BE VALID, REGARDLESS OF WHO IS PRESIDENT, REGARDLESS OF HIS PARTY AFFILIATION, AND DESPITE THE GOOD FAITH AND BEST EFFORTS OF THE PERSONS WHO WILL OCCUPY THESE POSITIONS.

- THE PRESIDENT'S COMMISSION ON ORGANIZED CRIME CLEARLY ENDORSED THE CONCEPT OF INDEPENDENT CABINET-LEVEL AGENCIES WITH SHARED RESPONSIBILITY FOR DRUG LAW ENFORCEMENT SUCCESS. I AGREE WHOLEHEARTEDLY WITH THE COMMISSION'S RECOMMENDATIONS AGAINST A DRUG CZAR:

> IT IS NEITHER POSSIBLE NOR DESIRABLE UNDER OUR SYSTEM OF LAW TO INVEST A BOARD CHAIRMAN OR ANY OTHER "CZAR" WITH DICTATORIAL POWER TO COMMAND OTHER CABINET MEMBERS TO CONDUCT THE AFFAIRS OF THEIR RESPECTIVE DEPARTMENTS IN A PARTICULAR FASHION.

- WE DO NOT NEED THE ADDITIONAL LAYER OF BUREAUCRACY WITHIN THE EXECUTIVE BRANCH THAT THE BILL PROPOSES. THE PROPOSED BILL CALLS FOR THE CREATION OF A NEW SUPER-CABINET LEVEL OFFICE. SUCH AN OFFICE WOULD BE EXPENSIVE TO MAINTAIN, AND WOULD REQUIRE SIGNIFICANT STAFF AND OTHER RESOURCES THAT WOULD INEVITABLY BE DRAWN FROM CURRENT DRUG CONTROL AND OTHER SOCIAL PROGRAMS. IN CONTRAST, CURRENT DRUG CONTROL EFFORTS HAVE BEEN, AND CONTINUE TO BE, ENHANCED THROUGH EXISTING ADMINISTRATIVE STRUCTURES.

- THE DRUG CZAR CONCEPT WOULD HAMPER EXISTING DRUG CONTROL ACTIVITIES. THE BURDENSOME LAYER OF NEW BUREAUCRACY IT CREATES WOULD DETRACT FROM DRUG CONTROL PROGRAMS AND OPERATIONS, RESTRICTING THE DECISION-MAKING AUTHORITY OF CABINET OFFICIALS, AND REDUCING INTER-DEPARTMENTAL AND INTERAGENCY POLICY DEVELOPMENT AND DISCUSSION. THE DRUG CZAR WOULD FURTHER CARVE UP THE CRIMINAL JUSTICE SYSTEM AND WOULD THREATEN THE AUTONOMY OF TREASURY, JUSTICE, TRANSPORTATION, AND STATE, AS WELL AS HHS AND THE DEMAND

SIDE AGENCIES. THE SERIOUSNESS OF THIS THREAT IS UNDERSCORED BY THE OVERWHELMING OPPOSITION TO THIS PROPOSAL BY THE FEDERAL LAW ENFORCEMENT COMMUNITY AS WELL AS BY SUCH GROUPS AS THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE AND THE NATIONAL ASSOCIATION OF ATTORNEY'S GENERAL.

o THE DRUG CZAR WOULD BE BAD PRECEDENT. THE CREATION OF A DRUG CZAR WOULD SERVE AS PRECEDENT FOR CREATION OF A "TERRORISM CZAR" AND OTHER "CZARS" TO DEAL WITH ANY ISSUE THAT CUTS ACROSS DEPARTMENTAL LINES. THIS IS CLEARLY THE MOST CUMBERSOME WAY OF DEALING WITH PROBLEMS HAVING INTER-DEPARTMENTAL JURISDICTION.

IN CONCLUSION LET ME STRESS THAT THE POLICY BOARD DOES NOT HAVE DAY-TO-DAY OPERATIONAL RESPONSIBILITY FOR DRUG LAW ENFORCEMENT AND DEMAND REDUCTION ACTIVITIES. WE DO HAVE POLICY RESPONSIBILITY TO FACILITATE THE COORDINATION OF OPERATIONS AND POLICY UNDER THE TERMS OF THE NATIONAL NARCOTICS ACT OF 1984. WE DO NOT MICRO-MANAGE THE OPERATIONS OF ENFORCEMENT AGENCIES. THOSE DOING THE JOB IN THE FIELD ARE NORMALLY GIVEN THE FLEXIBILITY, WITHIN LEGAL CONSTRAINTS, TO GET THE JOB DONE IN CONCERT WITH OUR OVERALL NATIONAL STRATEGY. WHEN AN INTERAGENCY COORDINATION OR COOPERATION PROBLEM SURFACES, WE DEAL WITH IT AT THE POLICY BOARD. WE WELCOME YOUR CONCERN AND INTEREST IN THIS PROCESS.

III. GENERAL ACCOUNTING OFFICE REVIEWS AND RECOMMENDATIONS

GAO MAIN FILE COPY

REPORT TO THE CONGRESS

CONGRESSIONAL INFORMATION SERVICE
JUN 7 - 1973

A Single Agency Needed To Manage Port-Of-Entry Inspections--Particularly At U.S. Airports B-114898

Department of Justice
Department of the Treasury
Department of Agriculture
Department of Health, Education,
and Welfare

BY THE COMPTROLLER GENERAL
OF THE UNITED STATES

MAY 30, 1973

(1001)

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-114898

To the President of the Senate and
Speaker of the House of Representatives

This is our report on the need for a single agency to manage port-of-entry inspections--particularly at U.S. airports.

Our review was made pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

Copies of the report are being sent to the Director, Office of Management and Budget; the Attorney General; and the Secretaries of Health, Education, and Welfare; Agriculture; and the Treasury.

Elmer B. Staats

Comptroller General
of the United States

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COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

A SINGLE AGENCY NEEDED TO MANAGE
PORT-OF-ENTRY INSPECTIONS--
PARTICULARLY AT U.S. AIRPORTS
Department of Justice
Department of the Treasury
Department of Agriculture
Department of Health, Education,
and Welfare
B-114898

DIGEST

WHY THE REVIEW WAS MADE

Because the number of people entering the United States increases greatly each year, GAO reviewed the Federal inspection system, primarily at the John F. Kennedy International Airport, to determine how satisfactory it is and what should be done to meet the heavy workload that lies ahead.

FINDINGS AND CONCLUSIONS

By 1978 annual arrivals to the United States are expected to reach 274 million--an increase of 44 million in 8 years and about 30 percent more than the present U.S. population. Air arrivals alone are expected to increase from 14 million in 1970 to 33 million by 1978. (See p. 6.)

Four Federal agencies are responsible for inspecting persons entering the United States.

--The Public Health Service, Department of Health, Education, and Welfare, checks for required inoculations and apparent health.

--The Immigration and Naturalization Service, Department of Justice, checks citizenship and determines admissability of aliens.

--The Bureau of Customs, Department of the Treasury, inspects baggage and assesses duty and taxes.

--The Animal and Plant Health Inspection Service, Department of Agriculture, inspects agricultural items, such as plants and meat.

At a time when inspection resources are strained by the increased number of arrivals, particularly at international airports, the situation is further aggravated by the uneven distribution of arrivals during both the day and the year. At the Kennedy airport, for example:

--Forty percent of the annual passenger traffic in a recent year arrived during July, August, and September.

--A major portion of the air arrivals during 1 week in that year landed between 2:00 p.m. and 8:00 p.m. each day. (See pp. 6, 7, 8, and 10.)

The increases in, and concentrations of, air arrivals and the four-way division of inspection functions

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contribute to the following problems:

--The agencies must staff and supervise inspection operations at Kennedy at four separate locations. (See p. 9.)

--The agencies have different policies and procedures for establishing work shifts and billing airlines for services. (See p. 9.)

--The agencies have different pay scales for overtime which results in wide disparities in pay for inspectors performing similar work. (See p. 9.)

--At peak traffic periods, the pressure to quickly process arrivals dilutes the quality of the inspections. (See p. 9.)

An attempt to overcome these difficulties by consolidating inspections started in the 1940s on the Canadian border. In the early 1960s a similar effort was started on the Mexican border.

In late 1967 and early 1968, a task force, chaired by the Office of Management and Budget and including members of the four inspection agencies, concluded after examining the inspection system that one-stop inspections could be effective at international airports.

Under the one-stop system, one officer inspects arrivals for two or more agencies and receives specialized help at a secondary inspection station when necessary. (See p. 12.)

The system was tested at Kennedy airport due to the heavy air traffic expected during the summer of 1968. Although this system did facilitate processing, local officials of the four agencies were highly critical of the quality of the inspections under the system. (See pp. 14 and 20.)

The one-stop system was halted in late 1970 when Customs withdrew its personnel from the primary inspection stations to deal more intensively with the administration's anti-drug-smuggling campaign. (See p. 20.)

In its final report in May 1968, just prior to the one-stop test, the task force observed that "the total inspection system is lacking direction, vitality, and responsiveness because of the divided responsibility among the four agencies."

The task force considered as inevitable the establishment of a single agency for all activities pertaining to the inspection of travelers and their baggage. (See p. 13.)

Attempts to improve the inspection system have been frustrated mainly because of the inherent difficulties of multi-agency cooperation.

The four agencies recognize that a fragmented approach to inspections will not allow a more efficient and effective inspection system to develop. Benefits of single-agency management include:

--Development of a single inspection system.

--Uniform administrative policies and procedures.

--Improved scheduling, planning, and coordination.

--Elimination of duplication.

--Reductions in space and staff requirements and inspection time.

RECOMMENDATION

The Director, Office of Management and Budget, in cooperation with the Attorney General and the Secretaries of Health, Education, and Welfare; Agriculture; and the Treasury should implement single-agency management of port-of-entry inspections.

AGENCY ACTIONS AND UNRESOLVED ISSUES

On March 28, 1973, the President transmitted to the Congress Reorganization Plan No. 2 which will transfer the functions of the Immigration and Naturalization Service related to the inspection of persons and documents, and the related manpower, to the Bureau of Customs. This proposal would be a significant first step in eliminating the problems discussed.

In commenting on a draft of this report, the Office of Management and Budget said that after this transfer is completed the possibilities for further improvement in the inspection process will be reviewed.

The Departments of Agriculture, Justice, and the Treasury agreed with GAO's recommendation.

The Department of Health, Education, and Welfare did not agree with the concept of single-agency management and emphasized that only experienced inspectors understanding disease epidemiology could adequately carry out epidemiological surveillance.

Single-agency management would not eliminate experienced judgment or expertise in a particular inspection function, such as epidemiological surveillance; it could still be accomplished by trained inspectors.

MATTERS FOR CONSIDERATION BY THE CONGRESS

The President's Reorganization Plan No. 2 of 1973 would be an important step toward achieving single-agency management of port-of-entry inspections, especially at the U.S. international airports.

CHAPTER 4

CONCLUSIONS, RECOMMENDATION, AND AGENCY COMMENTS

CONCLUSIONS

The four inspection agencies recognize that a fragmented approach to port-of-entry inspections will not allow the development of a more efficient and effective inspection system. The increasing number of persons entering the United States at international airports aggravates the problems caused by this fragmented approach. The benefits of single-agency management of inspections include:

--Development of a single inspection system.

--Uniform administrative policies and procedures.

--Improved scheduling, planning, and coordination.

--Elimination of duplication.

--Reductions in space and staff requirements and inspection time.

Efforts to improve the inspection system have been frustrated because of the inherent difficulties of multiagency cooperation. The four agencies need to effectively cooperate to initiate action to implement single-agency management.

RECOMMENDATION

We recommend that the Director, Office of Management and Budget, in cooperation with the Attorney General and the Secretaries of Health, Education, and Welfare; Agriculture; and the Treasury implement single-agency management of port-of-entry inspections.

AGENCY COMMENTS AND ACTIONS

On March 28, 1973, the President transmitted to the Congress Reorganization Plan No. 2 which will transfer the functions of the Immigration and Naturalization Service related to the inspection of persons and documents, and the related manpower, to the Bureau of Customs. In commenting on our draft report, the Office of Management and Budget stated that the Reorganization Plan was a major step toward achieving single-agency inspection and that, after this transfer is effected, the possibilities for further improvement in the inspection process will be reviewed.

The Department of Agriculture generally supported our recommendation but suggested that inspections at major international airports be under a single manager responsible to a board composed of officials of the four inspection agencies. The Departments of Justice and the Treasury agreed with our recommendation.

The Department of Health, Education, and Welfare agreed that increased cooperation between the inspection agencies could contribute to a more efficient and effective inspection service but did not agree that its inspection function should be placed under single-agency management. The Department contended that its inspection activities are unique and can best be done through selected surveillance by those who have an experienced understanding of disease epidemiology.

The proposal under Reorganization Plan No. 2 to transfer the Immigration and Naturalization Service's inspection functions to the Bureau of Customs would be a significant first step in eliminating the problems discussed in this report.

Single-agency management of inspections would not eliminate experienced judgment or expertise in a particular inspection function. In the case of Public Health inspections, epidemiological surveillance need not be eliminated, it could still be accomplished by trained inspectors. At the present time Public Health and Immigration work together on a single preliminary screening post. We believe that the Office of Management and Budget should continue its efforts to bring about unified management of port-of-entry inspections.

UNITED STATES GENERAL ACCOUNTING OFFICE

REPORT TO THE CONGRESS

More Needs To Be Done To Reduce The Number And Adverse Impact Of Illegal Aliens In The United States

B-125051

Immigration and Naturalization Service
Department of Justice

BY THE COMPTROLLER GENERAL
OF THE UNITED STATES

JULY 31, 1973

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-125051

To the President of the Senate and the
Speaker of the House of Representatives

We have reviewed efforts of the Immigration and Naturalization Service, Department of Justice, to reduce the number and adverse impact of illegal aliens in the United States.

Our review was made pursuant to requests from Congressman William J. Randall, Chairman, Legal and Monetary Affairs Subcommittee, House Committee on Government Operations, and Congressman John W. Wydler.

We are sending copies of this report to (1) the Director, Office of Management and Budget, (2) the Attorney General, and (3) the Secretaries of the Treasury; Health, Education, and Welfare; and Labor.

Elmer B. Staats

Comptroller General
of the United States

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ABBREVIATIONS

GAO	General Accounting Office
HEW	Department of Health, Education, and Welfare
HRD	California Department of Human Resources and Development
INS	Immigration and Naturalization Service
IRS	Internal Revenue Service

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

MORE NEEDS TO BE DONE TO REDUCE THE
NUMBER AND ADVERSE IMPACT OF
ILLEGAL ALIENS IN THE UNITED STATES
Immigration and Naturalization
Service
Department of Justice B-125051

DIGEST

WHY THE REVIEW WAS MADE

At the request of the Chairman, Special Studies Subcommittee (presently Chairman, Legal and Monetary Affairs Subcommittee), House Committee on Government Operations, and Congressman John W. Wydler, GAO examined the problems of the Immigration and Naturalization Service (INS) in preventing entry of, locating, apprehending, and expelling illegal aliens--those deportable under the Immigration and Nationality Act.

This report deals with the illegal alien problem, its impact on INS enforcement operations, and the coordination of INS activities with those of other Government agencies to help relieve some of the burdens caused by illegal aliens.

FINDINGS AND CONCLUSIONS

INS does not have the problem under control. The increasing number of illegal aliens entering the country has reached severe proportions and far exceeds INS's ability to cope with the problem.

The number of illegal aliens located by INS has increased from about 200,000 in fiscal year 1968 to over 500,000 in fiscal year 1972. (See p. 5.) This large number and the consequent strain on its resources have caused INS to establish operating practices which have diluted the deterrent effect of its enforcement efforts.

These practices include granting most illegal aliens voluntary departure in lieu of deporting or prosecuting them and discontinuing many special searches which had successfully located many of them.

Illegal aliens have a strong incentive to enter the United States in search of employment. Although INS apprehends many, a large portion--at least 31 percent of the 369,495 apprehended by the Border Patrol in 1972--are repeaters. Some aliens enter illegally as many as 10 times. (See p. 10.)

Many employers continue to hire illegal aliens even after (1) repeated INS visits, which result in numerous apprehensions, and (2) other INS efforts to dissuade these employers from hiring such aliens. (See p. 12.)

INS has little difficulty apprehending illegal aliens; however, INS could apprehend more illegal aliens if it had more detention funds and space, investigators, border patrolmen, transportation funds, and time. (See p. 14.)

The New York and Los Angeles INS district offices had a backlog of about 38,000 cases in which INS had not verified the departure of apprehended illegal aliens who had been allowed to depart on their own recognizance. GAO's analysis of 200 cases showed INS had not attempted to locate many of these aliens for several months. (See p. 17.)

In fiscal years 1971 and 1972 INS located about 900,000 illegal aliens. During that period, 23,347, or less than 3 percent, were prosecuted and 33,905, or about 4 percent, were deported. (See p. 18.)

A large percentage of commercial smugglers of aliens are being prosecuted. However, penalties levied on these smugglers are light considering the monetary gains from smuggling aliens into the United States. (See p. 23.)

Inadequate enforcement of immigration laws contributes to the rise in illegal entries. An effective enforcement program hinges on (1) eliminating the economic incentives attracting illegal aliens and (2) increasing the resources for apprehending and processing illegal aliens. (See p. 29.)

INS does not have the capacity to locate and expel all illegal aliens in the country and should emphasize those operations that minimize their adverse impact on the economy. Other Government agencies must cooperate to achieve this goal.

Cooperation between INS and the Internal Revenue Service, local welfare agencies, and State employment agencies has been unsystematic, or sporadic, and has had little effect. Most Government agencies either do not feel obligated to cooperate with INS or question the benefits of such cooperation.

Three areas where improved cooperation among Government agencies is needed concern illegal aliens who

--do not pay Federal income taxes on income earned in the United States,

--are on welfare, and

--hold jobs that could be filled by citizens or lawful resident aliens.

Recent Social Security Act amendments (1) provide that information on welfare applicants or recipients may be disclosed to law enforcement officials and (2) restrict eligibility under welfare programs to citizens or aliens residing lawfully in the United States.

On August 3, 1972, a bill was introduced in the House of Representatives which included a provision to restrain employers from hiring illegal aliens by making it unlawful to knowingly employ such an alien.

The Congress adjourned before taking final action on this bill. The bill was reintroduced in January 1973 as House bill 982, and the House passed it in May 1973.

This legislation, if enacted and enforced, would remove a major economic incentive which attracts illegal aliens.

RECOMMENDATIONS

GAO recommends that:

—The Attorney General and the Secretary of the Treasury agree on the goals and duties of each agency in their efforts to collect taxes from departing aliens and revise their operating instructions to include (1) criteria under which INS will refer aliens to the Internal Revenue Service for tax determinations, (2) a system for making such referrals, and (3) followup procedures to monitor and measure the system's effectiveness. (See p. 39.)

--The Attorney General and the Secretary of Health, Education, and Welfare develop guidelines for Federal and local welfare agencies to provide information to INS for identifying illegal aliens applying for or receiving welfare assistance. (See p. 45.)

AGENCY ACTIONS AND UNRESOLVED ISSUES

The Department of Justice said INS had done an effective job operating in the midst of the constraints on its resources. The Department, however, agreed with GAO's conclusions that

--there is little difficulty in locating illegal aliens,

--the number of illegal aliens located is constrained by the available resources,

--inadequate enforcement is contributing to the rise in illegal entries into the United States, and

--an improved and more systematic information exchange between INS and various Government agencies would be beneficial.

The Department also agreed with GAO recommendations and said that an improved more systematic exchange of information between INS and the various agencies would be beneficial. (See app. II.)

The Internal Revenue Service agreed with GAO's recommendations. Discussions between INS and the Internal Revenue Service have been reopened and a revised program for collecting taxes from departing illegal aliens is being considered.

The Internal Revenue Service is confident that implementation of a revised program incorporating GAO suggestions will increase tax collections and remove some of the incentive for aliens to enter illegally. (See app. III.)

The Department of Health, Education, and Welfare (see app. V) agreed on the need for welfare agencies to provide information to INS on illegal aliens applying for or receiving welfare payments. The Department said policies and procedures are presently contemplated that would accomplish the intent of the GAO recommendation.

The Department of Labor referred to the lack of a Federal law to prohibit employers from hiring illegal aliens. It said that, since jobs lure aliens and employers hire them because they will accept wages below prevailing rates and perform menial and low status jobs, the Employment Service can do little in a cooperative arrangement. Labor also said curtailment of its resources prohibited it from even contemplating cooperation. (See app. IV.)

MATTERS FOR CONSIDERATION BY THE CONGRESS

GAO recommends that the Senate give favorable consideration to aspects of House bill 982 which make it unlawful to hire illegal aliens.

CHAPTER 1

INTRODUCTION

Pursuant to requests from Chairman William J. Randall,[1] Special Studies Subcommittee, House Committee on Government Operations, and Congressman John W. Wydler, we examined problems of the Immigration and Naturalization Service (INS) of the Department of Justice in preventing entry of, locating, apprehending, and expelling illegal aliens.

INS administers and enforces the immigration and nationality laws relating to admitting, excluding, and deporting aliens and to naturalizing lawful resident aliens. INS activities include (1) inspecting aliens entering the country, (2) naturalizing aliens, (3) patrolling borders, (4) investigating aliens' status, and (5) detaining and deporting illegal aliens.

The Immigration and Nationality Act (8 U.S.C. 1101) contains the statutory provisions for entry and stay of aliens. Aliens are categorized by three broad groups--immigrants who seek permanent residence; nonimmigrants who enter for temporary periods for such purposes as business, pleasure, schooling, or work; and aliens who enter illegally, such as those who sneak in, use fraudulent visas or documents, or make false claims to citizenship.

Illegal aliens deportable under the act include those who entered illegally and those who subsequently violated the conditions of their entry. Immigrants become deportable by certain actions or convictions as defined in the law. Nonimmigrants became illegal aliens by overstaying their permitted time or taking unauthorized jobs.

INS estimates that a million illegal aliens are in the country. The number of illegal aliens located by INS has increased from about 200,000 in fiscal year 1968 to about 500,000 in fiscal year 1972. Not all located illegal aliens depart immediately. Some have their status changed to legal immigrant. Others are allowed to depart on their own recognizance but do not depart when required. The chart on page 7 shows INS statistics on illegal aliens located and departures verified for fiscal years 1968-72.

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[1] In the 93d Congress Mr. Randall became Chairman of the Committee's Legal and Monetary Affairs Subcommittee.

LOCATING AND APPREHENDING ILLEGAL ALIENS

INS enforcement objectives are to (1) prevent the illegal entry of aliens, (2) locate illegal aliens, and (3) initiate proceedings for expelling them as rapidly as possible.

The Border Patrol, the Investigations Division, and the Detention and Deportation Division are the principal INS units involved with illegal aliens.

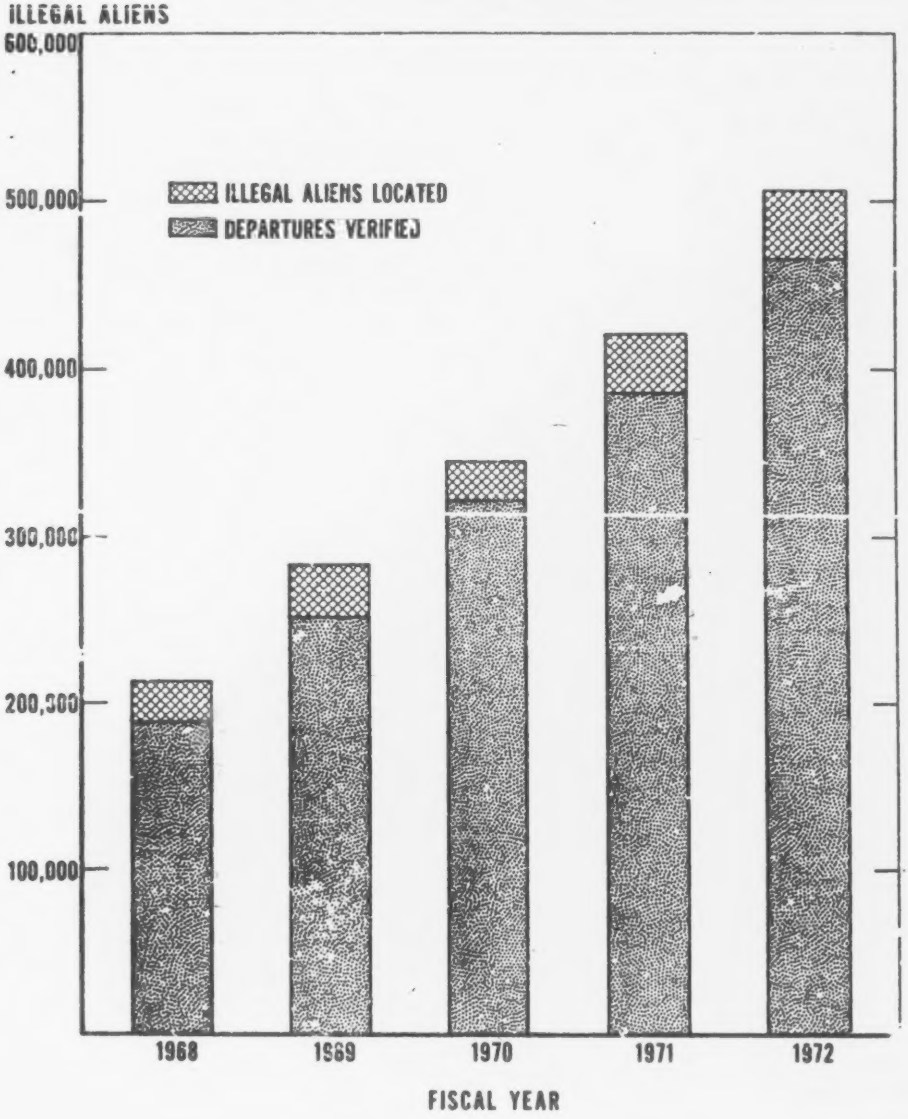
The Border Patrol is to prevent illegal entry of aliens and to apprehend those who succeed in entering illegally. The Patrol operates in 22 geographical sectors mainly within 100 miles of the borders. According to INS, most illegal entries are made across the Mexican border; therefore more border patrolmen are stationed in that area than in any other. During fiscal year 1972, the Patrol apprehended 369,495 illegal aliens.

The Investigation Division is to locate and apprehend illegal aliens in the interior of the United States and secure evidence to enforce their departure. This Division apprehended 112,880 illegal aliens in fiscal year 1972.

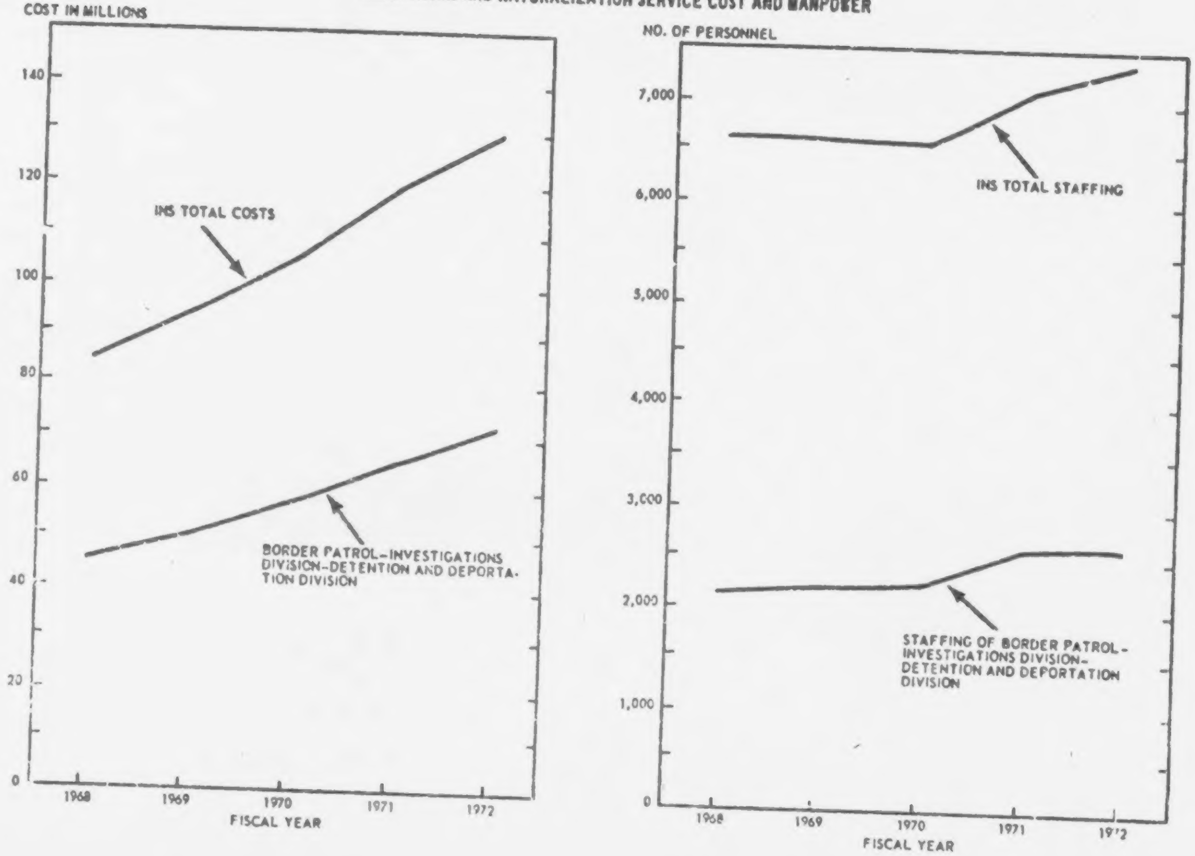
The Detention and Deportation Division is to detain, deport, and parole aliens. During fiscal year 1972, 467,193 illegal aliens were expelled from the United States.

The cost and staffing of the Patrol and the Investigations and Detention and Deportation Divisions have increased steadily, as shown in the chart on page 8, and represent a major portion of total INS resources.

ILLEGAL ALIENS LOCATED AND DEPARTED



IMMIGRATION AND NATURALIZATION SERVICE COST AND MANPOWER



CHAPTER 2

THE ILLEGAL ALIEN PROBLEM

INS does not have this problem under control. The large number of illegal aliens located by INS and the consequent strain on its resources have caused INS to establish operating practices which have diluted the deterrent effect of its enforcement efforts. These practices include (1) granting most illegal aliens voluntary departure in lieu of deporting or prosecuting them and (2) discontinuing many special search and area control operations which had successfully located large numbers of illegal aliens.

MAGNITUDE OF THE PROBLEM

INS reports show that, of the 505,949 illegal aliens apprehended in fiscal year 1972, 95 percent entered by one of the following methods:

--398,290 sneaked into the country (79 percent),

--64,547 entered as visitors (13 percent), and

--19,257 entered as ship crewmen (3 percent).

Of the 398,290 who sneaked in, 391,887 were Mexicans and 3,662 were Canadians, the majority of whom claimed they crossed over the land borders of 6,000 miles.

Of the 64,547 who entered as visitors, 53,052 were either Mexican, Canadian, or other Western Hemisphere nationals. The crewmen were mainly Greeks, Scandinavians, and Chinese and other Asians.

INS enforcement officers had the following comments on the magnitude of the illegal alien problem and INS' ineffectiveness in controlling it.

--Locating and apprehending illegal aliens in the New York area is no problem. The number apprehended is directedly related to the number that can be processed and detained (New York district office).

- --Illegal aliens can be located and apprehended at will; however, because of lack of detention and travel funds, area control searches are conducted infrequently (Boston district office).

- --The existing investigative force of seven is a thin line of defense and, as a result, the district cannot provide effective enforcement (Kansas City district office).

- --With more investigators, the district could apprehend considerably more aliens (Miami district office).

- --Investigation Division searches in the States along the Mexican border are generally ineffective (southwest regional office).

INS district offices in Los Angeles and New York received about 33,000 complaints or leads concerning illegal aliens in fiscal year 1972 and, at the time of our review, had a backlog of about 77,000 uninvestigated complaints or leads. INS told us that those complaints and leads, which indicate a high apprehension potential, are investigated as available manpower permits.

Repeaters

Many of the illegal aliens apprehended by INS have previously been apprehended and expelled--some as many as 10 times.

The incentive to reenter appears stronger than the available deterrents to inhibit reentry. Border Patrol statistics show that about 31 percent of the illegal aliens apprehended in fiscal year 1972 were repeaters.

These statistics show that the repeater rate is higher in those Patrol sectors where the illegal aliens apprehended were predominantly Mexicans. In the Swanton, Vermont, sector, where almost no Mexicans were apprehended, the repeater rate was only 5 percent.

	Illegal aliens apprehended by Border Patrol in fiscal year 1972			
	Total	Percent Mexican	Number of repeaters	Percent repeaters
Nationwide	369,495	96	115,758	31
Selected Border Patrol sectors:				
Chula Vista, California	73,115	98	16,611	23
El Centro, California	15,327	99	4,531	30
Swanton, Vermont	3,491	(a)	188	5
Miami, Florida	5,656	65	1,619	29
Total	97,589	93	22,949	24

[a] Less than 1 percent.

An INS analysis showed that, of 3,161 Mexican aliens who claimed they sneaked in, 797 were repeaters, of which 108 had been apprehended more than 3 times. A Labor study showed that, of 75 illegal Mexican aliens interviewed, 33 percent were repeaters. Almost 44 percent said they would try again to reenter.

Most illegal aliens enter to work

In recent years the Congress and a number of State and local governments have focused considerable attention on the problem created by the influx of illegal aliens. They have, to varying degrees, pointed out the serious economic and social problems created by illegal aliens and have indicated that the problem is economically based--the alien wants employment and the employer wants cheap labor.

Our review confirms that the incentive to enter illegally or to violate nonimmigrant status is principally based on the search for jobs. The illegal aliens come from countries which do not enjoy the same prosperity as the United States.

INS reports show that, during fiscal year 1972, 440,805, or 87 percent of the illegal aliens apprehended, were either employed or seeking employment. Of the 192,591, or 43 percent,

CONCLUSIONS

Though the motivation behind the flood of illegal entrants is economic, we believe inadequate enforcement of immigration laws contributes to the rise in illegal entries. Deterrence through INS hearings and prosecution has been overshadowed by an emphasis on allowing voluntary departure, even though such departure probably does not deter aliens from immigration violations.

Because of the difficulty in processing the large number of violators, waiving deportation hearings for aliens who agree to voluntarily depart seems to be the only prudent alternative. It appears that an effective enforcement program hinges on (1) eliminating the economic incentives attracting illegal aliens (see ch. 4) and (2) increasing the resources for apprehending and processing illegal aliens.

AGENCY COMMENTS AND OUR EVALUATION

The Department of Justice, in a letter dated May 2, 1973 (see app. II), commented on a draft of this report:

> "The report also states that because of the increase in alien violators INS has had to resort to voluntary departure in lieu of formal deportation and criminal prosecution, thus diluting the deterrent effect of INS's enforcement efforts. This conclusion is not completely factual as every effort is still being made to deport flagrant violators and to prosecute those who violate the major criminal immigration law statutes. Before the large influx of illegal Mexican nationals began in 1965 and for several years thereafter nearly all adult Mexican male aliens apprehended were fingerprinted and held in detention until fingerprint returns were received. On the basis of their past records relatively large numbers were prosecuted and deported. Despite these procedures, the influx continued to escalate at ever increasing rates. There is no evidence provided in the draft report to support GAO's conclusion that deportation and prosecution would serve as any more of a deterrent now than it did earlier, nor does our past experience support such a conclusion. We believe the number of Mexican nationals illegally in the United States is substantially attributable to the termination in December 1964 of Public Law 78 which permitted the importation of Mexican agricultural workers for temporary periods.
>
> "The largest class of illegal aliens apprehended in the United States are Mexican nationals who either entered the United States illegally or violated status after entry as nonimmigrants. To understand the Mexican alien problem, it is important to recognize the character and plight of illegal Mexican nationals who constitute more than 85 percent of the total immigration violators encountered by INS. Such aliens normally enter the United States to seek employment so as to fulfill the basic needs of food, clothing, and

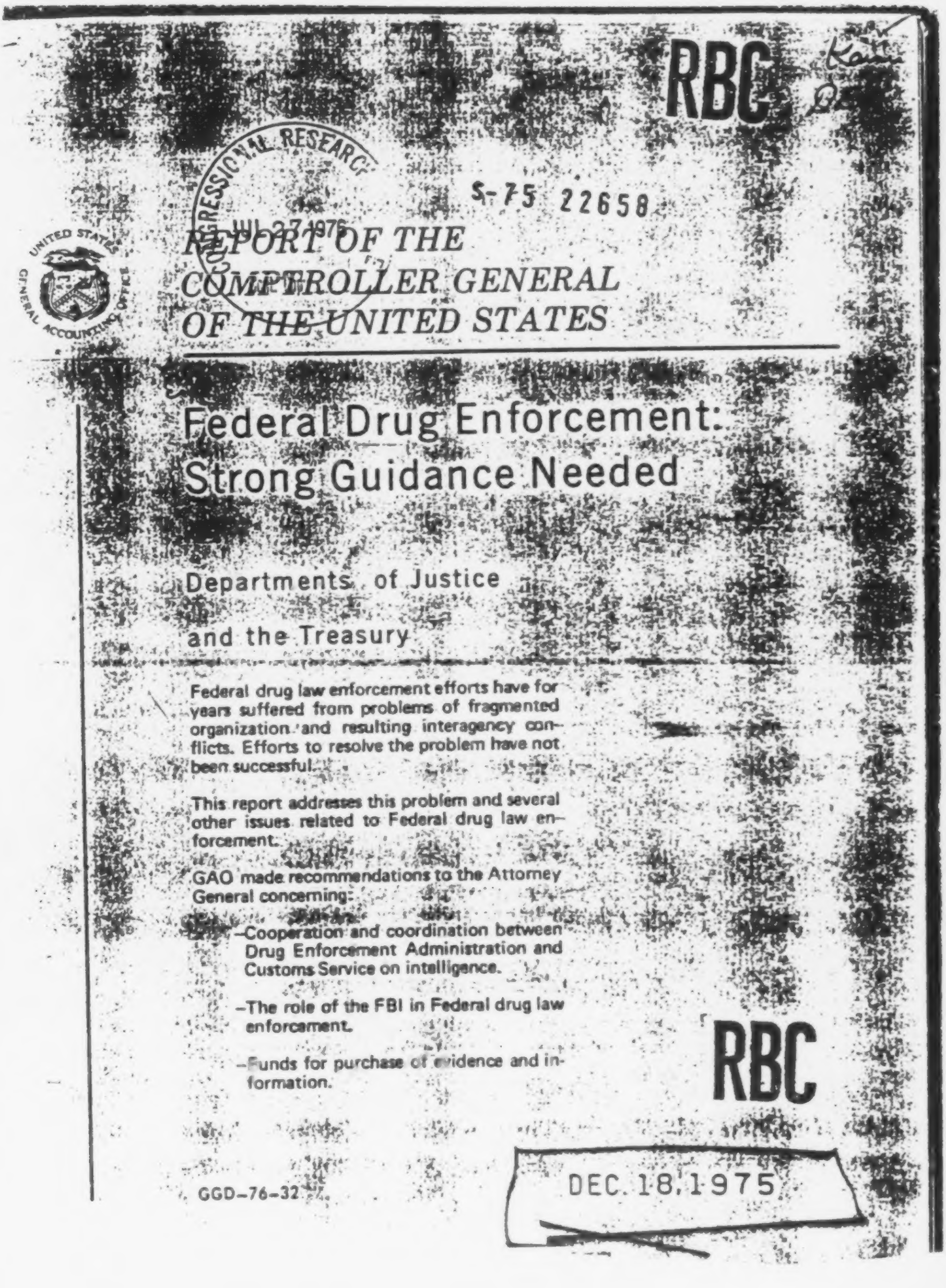
> shelter and to support their families in Mexico. The threat of their having to reapply for admission into the United States after deportation means very little as these aliens realize they will probably never be able to legally emigrate to the United States. Similarly, the threat of imprisonment of the illegal entrant in many instances has little deterrent effect as incarceration may be more of a benefit than a punishment since they will be provided their basic needs and possibly learn the rudiments of a trade or job skill while in prison so as to be in a better position to compete for employment in Mexico upon release.
>
> "The most important deterrent to illegal entries from Mexico is the prompt apprehension and return of aliens to Mexico before any gain can be realized from their entry. It has also been found that the return of such aliens to the interior of Mexico, near their homes, with the cooperation of the Mexican government, keeps many from attempting another illegal entry. However, the lack of INS funds during the past few years has precluded such return of many indigent aliens."

Because INS also does not require positive identification of most apprehended illegal aliens, it is not in a position to know all aliens who have past criminal records or all aliens who have entered the country illegally and were previously deported.

There is no way to determine exactly how many aliens were deterred from illegally entering the United States because of INS deportation and prosecution efforts. However, a 1972 INS report analyzing its prosecution program cited a widening gap between the volume of criminal violations encountered and the relative number of violators being prosecuted. Special Inquiry Officers in Los Angeles, Miami, and New York have told us that they consider the deportation process a deterrent to reentry.

However, as pointed out above, granting voluntary departure in lieu of deportation or prosecution is only one practice which has diluted the deterrent effort of INS enforcement activities. Equally significant was the discontinuation of many special searches and area control operations.

The Department agreed, however, that inadequate enforcement is contributing to the rise in illegal entries and that an effective enforcement program hinges on (1) increasing the resources for apprehending and processing illegal aliens and (2) eliminating the economic incentives attracting illegal aliens.



RBC

CONGRESSIONAL RESEARCH
JUL 27 1976

S-75 22658

REPORT OF THE
COMPTROLLER GENERAL
OF THE UNITED STATES

Federal Drug Enforcement: Strong Guidance Needed

Departments of Justice

and the Treasury

Federal drug law enforcement efforts have for years suffered from problems of fragmented organization and resulting interagency conflicts. Efforts to resolve the problem have not been successful.

This report addresses this problem and several other issues related to Federal drug law enforcement.

GAO made recommendations to the Attorney General concerning:

- Cooperation and coordination between Drug Enforcement Administration and Customs Service on intelligence.
- The role of the FBI in Federal drug law enforcement.
- Funds for purchase of evidence and information.

RBC

GGD-76-32

DEC. 18, 1975

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-183363

The Honorable Henry M. Jackson
Chairman, Permanent Subcommittee
on Investigations
Committee on Government Operations
United States Senate

Dear Mr. Chairman:

This report on Federal drug law enforcement was made in accordance with your March 6 and May 1, 1975, requests.

As requested by the Subcommittee staff, we did not submit the report to the Federal agencies involved for their official comments. However, we did discuss our findings with officials of the Drug Enforcement Administration, the U.S. Customs Service, and the Federal Bureau of Investigation and their comments were considered in preparing this report.

We invite your attention to the fact that this report contains recommendations to the Attorney General which are set forth on pages 42 and 56. As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the House and Senate Committees on Government Operations not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We will be in touch with your office in the near future to arrange for release of the report so that the requirements of section 236 can be set in motion.

Sincerely yours,

Elmer B. Staats

Comptroller General
of the United States

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ACRONYMS

BNDD	Bureau of Narcotics and Dangerous Drugs
DEA	Drug Enforcement Administration
DECS	Drug Enforcement Coordinating System
EPIC	El Paso Intelligence Center
FBI	Federal Bureau of Investigation
G-DEP	Geographic Drug Enforcement Program
GAO	General Accounting Office
INS	Immigration and Naturalization Service
LAPD	Los Angeles Police Department
LEAA	Law Enforcement Assistance Administration
NADDIS	Narcotics and Dangerous Drugs Information System
ODALE	Office for Drug Abuse Law Enforcement
OMB	Office of Management and Budget
ONNI	Office of National Narcotics Intelligence
PE	Purchase of Evidence
PI	Purchase of Information
RIU	Regional Intelligence Unit
TECS	Treasury Enforcement Communication System
UID	Unified Intelligence Division

COMPTROLLER GENERAL'S REPORT
TO THE PERMANENT SUBCOMMITTEE
ON INVESTIGATIONS, SENATE
COMMITTEE ON GOVERNMENT
OPERATIONS

FEDERAL DRUG ENFORCEMENT: STRONG GUIDANCE NEEDED

Department of Justice
Department of the Treasury

DIGEST

For years Federal drug law enforcement in the United States has not been as effective as it could have been if the agencies responsible had worked together to enforce the drug laws.

The price paid in this country for the lack of a concerted effort in attempting to control illicit drug activities cannot be measured.

The Federal agencies concerned--primarily the Drug Enforcement Administration and the U.S. Customs Service--have statistics on drug arrests, convictions, and seizures. However impressive these appear, they are not necessarily accurate indicators of how effective drug enforcement is.

True, statistics show increased arrests, convictions, and seizures. Law enforcement has not necessarily improved. Drug abuse is considered one of the most serious and most tragic problems in this country.

In his Reorganization Plan No. 2, of 1973, the President intended the Drug Enforcement Administration, the U.S. Customs Service, and the FBI to cooperate and coordinate their forces into a cohesive and powerful instrument for drug enforcement. They did not do so.

The Drug Enforcement Administration must obtain more valuable and reliable intelligence to assist the U.S. Customs Service in catching smugglers at border inspection posts. (See pp. 23 to 28.)

Since the 1973 reorganization, the Drug Enforcement Administration and the FBI have interpreted the FBI role in a narrow sense and have not materially changed their working relationship.

GGD-76-32

Tear Sheet. Upon removal, the report cover date should be noted hereon.

The Drug Enforcement Administration headquarters has not provided the FBI with names and information about drug traffickers. If the FBI was supposed to play a larger role in drug enforcement, it seems logical that the Drug Enforcement Administration would have provided the FBI with names and information about certain major traffickers. (See pp. 34 to 41.)

A recommendation that problems be solved by action at the highest level was made by the Domestic Council Drug Abuse Task Force in September 1975. Its chief recommendation said:

> "The task force recommends that the President direct the Attorney General and the Secretary of the Treasury to settle jurisdictional disputes between DEA and Customs by December 31, 1975, or to report their recommendations for resolution of the matter to the President on that date."

GAO endorses this recommendation. History shows, however, that establishing interagency agreements alone usually will not solve problems.

It is questionable whether such agreements ever will work without a clear directive on the part of someone acting on the President's behalf to compel agencies to comply.

The Drug Enforcement Administration considers the purchase of evidence and information as one of the most effective tools available in narcotics investigations.

The use of funds for purchase of evidence and information has been controversial. The effectiveness of the use of these funds is difficult to assess. GAO recommends that the Attorney General develop better policy and criteria governing their use. (See pp. 43 to 57.)

GAO did not obtain written comments from either the Department of Justice or the Treasury; however, the Drug Enforcement Administration, FBI, and U.S. Customs Service reviewed the report and their comments and suggestions were considered.

CHAPTER 1

INTRODUCTION

The Permanent Subcommittee on Investigations of the Senate Committee on Government Operations began hearings in June 1975 on the effectiveness of the Drug Enforcement Administration (DEA). The goal was a thorough analysis of DEA's ability to effectively deal with the ever-increasing narcotics and dangerous drugs problem. By letters of March 6 and May 1, 1975, the Chairman requested that we review certain areas which are of major concern to the Subcommittee. (See app. I.)

Specifically, the Subcommittee wanted us to provide:

1. "An analysis of purchase of evidence/purchase of information (PE/PI) funds used by DEA as an approach to drug law enforcement focusing on the number of convictions and significance of violators convicted, including (a) a study of the amounts of Federal dollars allocated to PE/PI over the last five years and to whom these dollars flow, and (b) an accounting of all such money so used since the creation of DEA."

2. "An analysis of the results of the BNDD[1]/DEA, U.S. Customs Service, and the former Office for Drug Abuse Law Enforcement efforts in drug enforcement, from fiscal year 1970 to present, focusing on the number of convictions, nature of the case, significance of violators convicted, and the nature, quantity, quality and/or street value of illicit drugs seized as well as an analysis of the law enforcement methodology utilized by each agency."

3. "An analysis of DEA enforcement and intelligence manpower allocations to various activities and functions in the agency."

4. "An analysis of the exchange of information between Customs and DEA, including the frequency and nature of requests for information or assistance by one agency or the other and the disposition of such request."

---

[1] Bureau of Narcotics and Dangerous Drugs

5. "An analysis of the controls exercised by DEA over narcotics seized, including any information available on the nature, quantity, quality and/or street value of any narcotics unaccounted for after original seizures."

6. "An analysis and accounting of any "confidential fund" maintained by DEA, including the purposes for which the funds were expended."

7. "An analysis of the program of cross designation of DEA agents to allow them the same search and seizure authority as U.S. Customs agents, to include the number of DEA agents so designated and the number and quality of arrests made and convictions obtained by them in this capacity."

8. "An analysis of the quantity and quality of intelligence information exchanged between DEA and the U.S. Customs Service since July 1, 1973, which would enable both agencies to function in the manner intended by Reorganization Plan No. 2."

9. "A study and analysis of the type and quality of cooperation that exists between the Federal Bureau of Investigation and the Drug Enforcement Administration since Reorganization Plan No. 2 was implemented on July 1, 1973."

10. "A study and analysis of how Federal money from LEAA [1] is allocated, by DEA, to the various narcotics Task Forces currently in operation in the country."

11. "A study and analysis of the Unified Intelligence Center, a federally funded narcotics related operation in the New York City area."

The Chairman also requested our views on the results of DEA compliance programs.

On June 9, 1975, our representatives testified before the Subcommittee on work in progress on this request and other work done in recent years to develop several reports to the Congress. This report presents the final results of our work pursuant to the Subcommittee's request.

1/Law Enforcement Assistance Administration

As part of our testimony at the June hearings, we provided copies of the digests of our prior reports on drug enforcement. Since then, we have issued another report whicl gives our most recent views on DEA's compliance program: "Improvements Needed In Regulating And Monitoring The Manufacture And Distribution Of Licit Narcotics" (GGD-75-102, Aug. 28, 1975).

We were denied access to DEA's "confidential fund" by the Department of Justice. Certain funds appropriated to Department of Justice agencies are outside the scope of our audit authority. DEA's annual appropriation acts authorize DEA the use of not more than $70,000 to meet unforeseen emergencies of a confidential nature. According to the act, these confidential funds are to be expended under the direction of the Attorney General and accounted for solely on his certificate. We were told by the Department that it had internal auditing procedures to insure the propriety of expenditures from these funds.

PRINCIPAL AGENCIES INVOLVED

Federal drug law enforcement from fiscal year 1970 to the present has been shared by several agencies.

Before July 1, 1973, Federal effort in drug law enforcement was characterized as "fragmented" and having "serious operational shortcomings." The criminal investigative and intelligence functions were shared by (1) BNDD and the Office for Drug Abuse Law Enforcement (ODALE) in the Department of Justice and (2) the U.S. Customs Service, as part of its antismuggling functions, in the Department of the Treasury. The Office of National Narcotics Intelligence (ONNI), also in the Department of Justice, was responsible for developing and maintaining a national narcotics intelligence system and for serving as a clearinghouse for Federal, State, and local agencies needing access to such intelligence.

This fragmentation of effort was one of the principal reasons leading to Reorganization Plan No. 2 of 1973 (effective July 1, 1973), which created a single comprehensive Federal agency, the Drug Enforcement Administration, within the Department of Justice and abolished BNDD, ODALE, and ONNI. The functions and resources of these agencies together with the investigative and intelligence-gathering functions and resources of the Customs Service relating to drug law enforcement were transferred to the new DEA. The Customs Service's antidrug role was limited to interdiction of illicit drugs at U.S. borders and ports of entry. Reorganization Plan No. 2 of 1973 also intended a more significant role for the Federal Bureau of Investigation (FBI) in drug enforcement.

DEA's State and local task force program is partially funded through grants by the Department of Justice's LEAA.

CHAPTER 3

MORE INTERAGENCY COOPERATION NEEDED IN FEDERAL DRUG LAW ENFORCEMENT

The Subcommittee expressed concern that Federal agencies' cooperation and coordination on drug-related intelligence and enforcement might not be adequate. Specifically, the Chairman's letters requested:

--"An analysis of the quantity and quality of intelligence information exchanged between DEA and the U.S. Customs Service since July 1, 1973, which would enable both agencies to function in the manner intended by Reorganization Plan No. 2."

--"An analysis of the exchange of information between Customs and DEA, including the frequency and nature of requests for information or assistance by one agency or the other and the disposition of such request."

--"An analysis of the program of cross designation of DEA agents to allow them the same search and seizure authority as U.S. Customs agents, including the number of DEA agents so designated and the number and quality of arrests made and convictions obtained by them in this capacity."

--"A study and analysis of the type and quality of cooperation that exists between the Federal Bureau of Investigation and the Drug Enforcement Administration since Reorganization Plan No. 2 was implemented on July 1, 1973."

Responsibility for enforcing Federal drug abuse laws has long been shared. The Customs Service has traditionally been responsible for the control of smuggling. Other agenies have, at one time or another, been responsible for controlling narcotics, marihuana, and dangerous drugs. The intersection of these responsibilities--smuggled narcotics, marihuana and, to a lesser degree, dangerous drugs--has been the primary source of conflict. The executive branch, many years ago, recognized the operational and organizational shortcomings that resulted from this basic conflict. Various reorganizations and Presidential directives have attempted to resolve problems stemming from this conflict. The problem, however, continues to exist due, in part, to the lack of a focal point with sufficient authority and information to resolve agency conflicts. Clearly one cabinet officer does not have authority to dictate the solution to a conflict with a fellow cabinet officer.

The impact of these problems on the effectiveness of drug control activities cannot be measured. Our analyses show that much more needs to be done to achieve the coordination among law enforcement agencies that was intended by Reorganization Plan No. 2.

DEA needs to place greater emphasis on obtaining intelligence data to assist the Customs Service in its interdiction function, and both agencies should cooperate on enforcement activities along the border. About 2 years have passed without these two agencies' reaching operational agreements at either the national, regional, or district level regarding the exchange of data and cooperation in enforcement activities. Since June 1975, both agencies have taken steps to strengthen cooperation.

Customs was originally opposed to designating DEA agents the search and seizure authority of Customs agents. Customs believes the designation to be illegal since DEA agents would be using it to perform DEA functions rather than Customs functions. Eventually, a limited number of DEA agents were granted the designation. To date, DEA has made little use of this authority.

The FBI's role in drug law enforcement needs to be clarified. Both agencies have interpreted the FBI's role to mean routine exchange of information and intelligence at the operating level and have not materially changed their working relationship since the reorganization.

WHAT HAS BEEN DONE

Since 1968 numerous actions have been taken to strengthen Federal drug law enforcement, including:

--Reorganization Plan No. 1 of 1968, creating BNDD.

--Presidential directive of February 1970, requiring guidelines to settle jurisdictional disputes between BNDD and Customs.

--The Comprehensive Drug Abuse Prevention and Control Act of 1970, consolidating fragmented Federal laws governing narcotics and dangerous drugs.

--The creation of ODALE and the Office of National Narcotics Intelligence (ONNI).

--Reorganization Plan No. 2 of 1973, which transferred the functions and resources of BNDD, ODALE, ONNI, together with the investigative and intelligence-gathering functions and resources of the Customs Service relating to drug law enforcement, to the new DEA.

--Domestic Council report on drug abuse of September 1975, containing recommendations for improving Federal drug abuse programs.

The Office of Management and Budget (OMB) proposed a solution to the problems of cooperation among Federal law enforcement agencies along U.S. borders. However, OMB's proposal was rejected by the Congress.

Reorganization Plan No. 1 created BNDD within the Department of Justice. This agency consolidated the resources and functions formerly directed by the Secretary of the Treasury, through the Federal Bureau of Narcotics, and the Secretary of Health, Education and Welfare, through the Bureau of Drug Abuse Control. One purpose of this plan was to unite previously fragmented investigative and enforcement functions of Federal narcotics and drug laws and to locate this new organization in the Department of Justice.

After this plan was implemented, jurisdictional problems arose between BNDD and Customs. Customs was charged with the control of smuggling; BNDD was charged with the control of narcotics. The interface of the two elements--smuggled narcotics--was a source of conflict between the two agencies. The jurisdictional problem became serious enough to require Presidential action.

In February 1970, the President directed the Attorney General to prepare guidelines to settle the jurisdictional dispute between BNDD and Customs. The President approved the guidelines in June 1970; and in July the Director of BNDD and the Commissioner of Customs entered into an implementing agreement. In our report on "Heroin Being Smuggled Into New York City Successfully" (B-164031(2), Dec. 7, 1972), we reported that at the operating level cooperation and coordination called for in the guidelines had not been fully realized.

Jurisdictional problems were further aggravated by the establishment of two additional agencies--ODALE and ONNI--in 1972. These agencies were established by Executive order on the basis of an urgent need for strong antidrug measures. The order creating ODALE provided that it should be headed by a director, having the title of Special Assistant Attorney General. The director also served as Special Consultant to the President for Drug Abuse Law Enforcement to advise the President on all matters relating to more effective enforcement by all Federal agencies.

In 1973 it was again recognized that the Federal drug control effort was fragmented with no overall direction, and Reorganization Plan No. 2 was enacted. The President envisioned a more effective involvement of the FBI in Federal drug law enforcement, particularly in attacking the relationship between drug trafficking and organized crime.

The President also envisioned the Attorney General having authority and responsibility for coordinating the collection of drug trafficking intelligence from all Federal departments and agencies. Specific language for accomplishing this was not spelled out in the plan. Executive Order 11727, July 6, 1973, did authorize the Attorney General "to the extent permitted by law" to coordinate all activities of executive agencies related to drug law enforcement. However, the Senate Government Operations Committee's report on the reorganization plan said that the Attorney General had no statutory authority to direct other Cabinet officers even when so authorized by Executive order of the President; only the President himself has such authority.

The reorganization plan also reaffirmed the role of the Department of the Treasury in the total Federal drug law enforcement program.

In June 1974, the Director of OMB informed the Attorney General and the Secretary of the Treasury of the conclusions reached in its analysis of Federal law enforcement along the southwest U.S. border. This analysis pointed out continuing competition, conflicts and overlaps in functions, and duplicative expenses in multiagency operations.

OMB directed that Customs be the lead agency for air interdiction and routine air enforcement; that Customs assume single-agency management at U.S.-Mexican border ports on a test basis; and that the Immigration and Naturalization Service (INS) be the single agency for land patrols between ports of entry. Subsequent congressional action has precluded implementation of OMB's recommendations.

In September 1975 the Domestic Council presented a white paper on drug abuse control to the President. This white paper contained many recommendations, including, in particular, a recommendation that the President direct the Attorney General and the Secretary of the Treasury

> "* * * to settle jurisdictional disputes between DEA and Customs by December 31, 1975, or to report their recommendations for resolution of the matter to the President on that date."

IMPROVED COOPERATION NEEDED BETWEEN DEA AND CUSTOMS

The conflicts between DEA and Customs have affected the exchange of intelligence and other information and the coordination and cooperation of enforcement activities.

Intelligence is used for strategic, operational, and tactical purposes. Strategic intelligence provides a situational overview on the magnitude of the problems, for use in formulating broad policy and strategy. Operational intelligence provides an overview and insight on the modes of operation, traffic patterns, and principal personalities involved in the illegal operations. It is used in allocating law enforcement resources. Tactical intelligence identifies specific traffickers and their methods of operation. This data is used to plan and conduct specific and imminent law enforcement.

Intelligence information may also be referred to as "finished" or "raw." Finished intelligence represents reports, publications, or studies. Raw intelligence represents undeveloped information that has not been analyzed.

Exchange of intelligence and other information

We were unable to obtain accurate statistics on the extent to which data and intelligence information have been exchanged between DEA and Customs. Neither agency systematically and routinely maintains such statistics at the national, regional, or local level. Their records provide only limited assurance that supplied input is attributed to the other agency.

DEA has provided Customs with intelligence and other information in a variety of forms, depending on the nature and urgency of the information. While the data Customs has attributed to DEA is less than the amount claimed by DEA, DEA has demonstrated a willingness to share data with Customs.

About 2 years have passed since the reorganization without Customs and DEA reaching a formal agreement on exchanging information and intelligence. Since the reorganization, these agencies have held meetings to discuss the matter. Proposed agreements were exchanged in 1974; however, the problem was not resolved. In June 1975 Customs proposed language for a circular to be issued by DEA defining Customs' continuing role in the narcotics effort and directing DEA agents to collect and forward interdiction-related narcotics information. Shortly thereafter, in response to Customs' proposal, DEA stressed the need to develop such data to its agents in the field, issued instructions for relaying intelligence on drug trafficking to Customs, and established a special liaison unit with Customs in its Office of Intelligence.

Intelligence information systems

The Narcotics and Dangerous Drugs Information System (NADDIS) was designed by DEA to further investigations on drug violators. It provides agents with biographical information on known violators and references to case files. The data includes

--the trafficker's residence, phone number, and such identifying characteristics, as height, weight, and age;

--the drug involved and the level of the case;

--the trafficker's passport data, vehicles, boat, and aircraft numbers; and

--the trafficker's associates.

The El Paso Intelligence Center (EPIC) is a prototype for a national narcotics intelligence system intended to serve Federal, State, and local law enforcement agencies with data from various sources. Its purpose is to provide a complete and accurate picture of drug trafficking, immigration violations, and smuggling--by land, sea, or air--between Mexico and the United States. Raw data is acquired and analyzed, and the resulting intelligence is disseminated to agencies with border enforcement responsibilities.

The Treasury Enforcement Communication System (TECS), operated by the Customs Service, makes enforcement-related data available instantly at border crossing points, airports, and seaports throughout the country. This capability has been used successfully to intercept known or suspected traffickers and associates and cargoes of firms engaged in smuggling. The types of information on individuals which can be entered into the system are

- --name, race, sex, height, weight;
- --date and place of birth;
- --address information; and
- --such identifying numbers as social security, driver's license, passport, National Crime Information Center, license plate(s), and aircraft.

Narcotics case records in TECS are increasing. One month after the reorganization, TECS contained 149,547 narcotics case records and, as of June 5, 1975, contained 152,730, an increase of 3,183.

The TECS system is accessible to DEA and the NADDIS system is available to Customs by computer terminals installed in each agency. One NADDIS terminal is located at Customs headquarters, and one TECS terminal is located at EPIC.

In the early stages of EPIC, DEA anticipated a joint effort by DEA, INS, and Customs, with DEA maintaining overall responsibility. It further anticipated that including Customs' personnel would be a substantial contribution toward accomplishment of EPIC's mission and prove mutually beneficial to all concerned. However, Customs did not feel its participation during the early stages of EPIC would be mutually beneficial. In July 1975 Customs agreed to send an observer to EPIC for 6 months to determine if participation with DEA and INS would now be beneficial for Customs. At the time DEA and Customs were negotiating to assign the observer to EPIC, Customs was placed on the distribution list to receive EPIC's weekly briefing report. With the exception of these reports and 156 pieces of drug information placed in TECS, EPIC has furnished intelligence information to Customs only on specific requests. Customs, as of June 30, 1975, had requested drug intelligence information from EPIC 47 times.

Finished intelligence

At the headquarters level, finished intelligence, such as the periodic intelligence bulletin, are disseminated on a relatively wide basis. DEA's Office of Intelligence reported forwarding 53 finished intelligence items to Customs since the reorganization. These items included operational data on traffickers, trafficking trends and routes, smuggling methods relating to concealment of narcotics, and drug prices and availability.

A review of available files by Customs headquarters identified 12 finished intelligence reports received from DEA over a 22-month period. Customs characterized some of these products as helpful and informative while additional information was required on others.

According to Customs, formal DEA requests for information are received on the average of two per month, while informal working level requests vary in frequency, depending on ongoing projects.

Raw intelligence

Raw intelligence information is disseminated between DEA and Customs both in the field and at the headquarters in Washington. According to field personnel interviewed, most intelligence sharing is the result of interpersonal relationships rather than formal exchange agreements or mechanisms. The exchanges are seldom documented by either agency or formally attributed to the providing agency by the other.

Customs' review of products, reports, cables, and letters available in headquarters files identified 83 items of raw intelligence received from DEA headquarters during a 22-month period. Of these, 60 were TECS entries. Customs' officials said that time constraints precluded their acquiring a meaningful assessment of DEA products available at Customs field offices. It was their belief that the exchange of intelligence information between Customs field offices and DEA was minimal and had been informal and uncoordinated.

DEA has committed its resources almost entirely to identifying major traffickers and eliminating sources of supply. Intelligence efforts are geared toward these goals rather than the gathering of intelligence information to interdict drugs at ports of entry and along the U.S. border. Information developed to assist domestic enforcement to interdict drugs is a byproduct of investigation. For instance, the DEA Mexico City regional office in June 1975 had no programs designed for developing information to assist in intercepting drugs at the borders. Except for several instances, such as developing data on aircraft and pilots landing at an airport in Southern Mexico or responding to a request from EPIC regarding aircraft registered in Mexico, no such data had been compiled.

According to DEA officials, DEA headquarters had provided many items of specific tactical intelligence, both formally and informally, to Customs headquarters. They pointed out that DEA's International Intelligence Division from January through June 30, 1975, referred 13 items to Customs involving 350 individuals and 20 different methods of smuggling. In addition, DEA headquarters has on five occasions turned over NADDIS tapes to Customs. These tapes contained approximately 123,000 records relating to more than 200,000 individuals. Initially, in mid-1974, DEA provided tapes to Customs containing approximately 110,000 records, which, after screening by Customs for adequacy and duplication, added about 40,500 records to TECS. In July 1975, Customs obtained about 13,700 additional records from NADDIS. How much of that information had previously been transmitted by letter, telephone, or teletype to Customs from DEA headquarters was not known.

DEA reported that, from the implementation of the reorganization through May 1975, its domestic regional offices transmitted about 3,700 referrals of specific tactical intelligence to their local Customs counterparts. These referrals ranged from a high of 1,195 for the New York region to a low of 40 for the New Orleans region. According to DEA, a substantial number of additional referrals to Customs offices were not documented.

Along the borders of the United States and at the ports of entry, the exchange of raw intelligence usually is an informal referral from a DEA agent to a Customs inspector or officer for entering a lookout into TECS. A lookout usually consists of a name, an automobile registration or license plate number, an aircraft number, or a boat number to help Customs inspectors intercept known or suspected criminal violators and the vehicles they use.

Customs told us that since July 1, 1973, it had turned over to DEA confiscated drugs--with collateral information--from 35,000 seizures having a total street value in excess of $600 million but had received virtually no feedback. Information from the locations visited in our review generally supported this claim.

Some Customs investigators in the field routinely sent specific pieces of narcotics intelligence to DEA. Although field offices maintain some liaison with each other, they do not automatically make available to each other their files, intelligence, and other information. Such information was exchanged, for the most part, on a specific request or on the basis of need rather than by routine sharing or pooling of such data.

Customs' reports on DEA-provided TECS entries are understated. Customs automatically codes TECS input by the terminal from which the data was received rather than by the agency providing the data. DEA has only one TECS terminal for entering data. Since many DEA lookouts are transmitted at Customs terminals convenient to the source of the information in the field, they are permanently coded as Customs' input. This tends to overstate Customs' TECs input and understate DEA's input. For example, from July 1973 through March 30, 1975, Customs requested the input of 260 lookouts on the TECS terminal at San Pedro, California, while DEA requested that about 390 lookouts be inserted. All 650 lookouts were counted as Customs' inputs.

Customs headquarters reviews daily the TECS entries from the field, by reading each entry to determine whether it meets TECS requirements. As a byproduct they identified approximately 5,000 DEA entries from field offices for the period February 17, 1974, through July 13, 1975. This figure appears to be understated because Customs procedures, according to a regional official, automatically purge such entries every 30 days unless otherwise requested; a Customs-provided printout of June 23, 1975, showed about 4,600 entries which were referred from DEA.

Seizures based on prior information

On March 28, 1974, in testimony before a House Appropriations Subcommittee on Customs' budget for fiscal year 1975, the Commissioner of Customs said that before reorganization, less than 90 percent of their drug seizures were cold seizures. He stated that, after the reorganization and the creation of DEA, the cold seizures rose to over 95 percent because the volume of information Customs obtained from DEA to enter into the Customs' intelligence network was low. We found that the 90-percent figure cited was a rough estimate. A recent Customs survey of 11 major districts or ports, representing close to half of Customs seizures for fiscal year 1973, indicated the percentage of cold seizures before the reorganization was about the same as Customs' current estimate--about 95 percent. In commenting on this report, Customs officials stated that Customs was not receiving as much seizure producing information from DEA as that previously produced by its own agents and was becoming increasingly dependent on narcotics information from sources other than DEA.

Coordination and cooperation of enforcement activities

DEA and Customs are not fully coordinating their efforts along the U.S.-Mexican border. Since the reorganization, there have been disputes about officers of the two agencies going beyond their jurisdictional boundaries and instances of each agency's thwarting the other's law enforcement efforts. At some ports sharp rivalries and infighting still occur between DEA and Customs.

Acceptable agreements regarding coordination have not been worked out. Each agency headquarters published its own instructions on this subject without agreement from the other. At some ports of entry, informal understandings between DEA and Customs have improved the daily working relationship. Some of the problems experienced between DEA and Customs are described below.

Methods of operation hinder cooperation

Customs procedures provide that all drug seizures must be weighed and marked for identification before being delivered to DEA. Customs officials at two ports of entry in Texas commented that, when drugs were located and seized, the Customs inspectors would photograph the seizures in unusual places of concealment, would remove the seizure from the vehicle or persons and weigh it, and would arrest and obtain certain information from the suspect before DEA arrived. DEA officials at these locations believe this practice destroys the force of DEA's standard investigation techniques, such as locating fingerprints on drugs, taking picture of drugs while still in place, and having the advantage of surprise in interrogating the suspects. This practice also hinders or may preclude the opportunity to convoy [1] a load of drugs to the intended receivers in the United States. At a major port of entry in California, officials of both agencies acknowledged such problems existed but stated that some had been solved through interagency meetings.

The frequency of convoys was significantly reduced after reorganization. Initially, Customs instructed its officers not to participate in convoys due to lack of personnel. With the reappearance of the Customs Patrol, convoying is being used again at some locations along the border. For instance, from October 1973 through May 1975, 34 convoys were conducted from the California border. DEA initiated 26 and Customs 8. Some convoys were successful, resulting in arrests on both sides of the border and in seizures of large quantities of narcotics.

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[1] Monitored passage of narcotics to a point of delivery.

DEA officials cited a case where a convoy of 55 pounds of marihuana resulted in closing down a close-knit family smuggling operation that had been operating for several years. Nine violators were arrested in California and six in Mexico. A total of 65 kilos of marihuana, 10 ounces of heroin, $14,200 in cash, and numerous items of stolen property were seized in California. In Mexico, 109 kilos of marihuana were seized. In contrast to this, at certain locations along the Texas border, a mood of distrust continues to limit the use of convoys. At some locations Customs officers' actions have been so restrictive that convoying does not occur.

Both DEA and Customs agents said that analyses of seized drugs were duplicated in some cases because the respective regulations required it. This could raise prosecution problems when analyses differ. Also, examples were cited by DEA where Customs had refused DEA's request to release vehicles found with illicit drugs, and Mexican authorities would not investigate or prosecute in such cases since they require the vehicle as evidence.

Jurisdictional disputes

Disputes regarding investigation versus interdiction have occurred. DEA agents work the border to interdict drugs without Customs assistance, and the Customs Patrol works away from the border on surveillance and investigation without DEA assistance.

DEA officials commented that they work on an interdiction case when it is based solely on specific intelligence developed by DEA and pertains to moving narcotics across the border. Customs Patrol officials acknowledge that they have worked other than interdiction cases. When DEA refuses to respond to calls from the ports of entry pertaining to drug suspects, the Customs Patrol provides surveillance from the ports. This sometimes requires surveillance of motels for several hours and leads to seizures several miles from the port. Customs officials consider it within its jurisdiction to conduct surveillance of suspects from the ports of entry.

One Customs port director commented that DEA was no longer called for surveillance of suspects from the port of entry because DEA had not responded to previous calls and Customs assumed that DEA was not interested. In responding to the port director's comment, DEA personnel said that, when called on by Customs inspectors to follow a suspected drug smuggler, they were not provided with all the important facts. Consequently, DEA did not consider some of the suspects worthy of surveillance.

For example, DEA received a call from a port of entry on a narcotic suspect carrying about $4,800 in cash. The agent did not respond because the amount of cash did not appear excessive since Customs allows an individual to pass through the port with as much as $5,000. What DEA had not been told, which would have changed the decision, was that the suspect was a drug user as shown by the needle marks on his arm. The Customs Patrol followed the suspect and seized about 4 ounces of heroin.

Cooperative efforts have been successful

Cases were noted where cooperative efforts between DEA and Customs were successful. The following examples illustrate what can be done.

Between January 1974 and June 1975, DEA agents and Customs Patrol officers cooperated in three narcotic cases in the McAllen, Texas, area which resulted in 13 arrests and seized about 2,000 pounds of marihuana. In another instance, the Customs Patrol in El Paso was alerted to an air shipment of possible narcotics and requested DEA's participation. A Customs dog gave a positive alert on the shipment, and arrangements were made to let the shipment go through. Because of this effort, DEA agents at the shipment's destination seized about 300 pounds of marihuana and arrested one suspect.

Lookouts placed by DEA agents at the Hidalgo, Texas, port of entry helped Customs inspectors make seven narcotic seizures consisting of about 817 pounds of marihuana; 114 grams of heroin; and 1 gram of cocaine. Nine defendants were arrested.

CUSTOMS SEARCH AUTHORITY

When Reorganization Plan No. 2 became effective, DEA requested the Commissioner of Customs to designate all DEA agents with U.S. Customs search and seizure authority. The designation of other Federal agency personnel as Customs officers is authorized by law, and employees of several agencies, including INS, the Department of Agriculture, and the Department of Defense, hold Customs officer designations. The Customs Service maintains, however, that this authority is given only when necessary to perform the duties of a Customs Officer in discharging Customs responsibilities.

The Justice Department claimed that the use of Customs authority for search without warrant by DEA was necessary in making border-related narcotics investigations, particularly when convoy techniques were used to follow drug shipments away from border areas. Justice maintained that this technique was used successfully by the Customs Service in narcotics investigations before the reorganization and that DEA did not intend to use this authority at ports of entry in competition with ongoing Customs activity.

The Treasury Department's position was that use of this authority by DEA agents would be illegal since the authority was not going to be used to assist in carrying out Customs responsibilities and since narcotics investigation searches away from the border in convoy situations were legally supportable on grounds of probable cause and not dependent on Customs authority. The request was therefore denied.

DEA insisted, however, that this designation was essential to its mission and proposed a compromise that only former Customs agents with training and experience in the use of this authority and now assigned to DEA because of the reorganization be granted this designation. Customs and DEA signed an agreement to this effect on January 11, 1974.

Approximately 350 DEA agents were so designated, and DEA issued policy and procedure guidance in a March 1974 notice. The procedures outlined the agreed-upon terms governing the use of the authority and instructed DEA agents to formally notify local Customs regions of their assignment to an area, give advance notice when possible and/or immediate followup notice for each use of the authority, submit written reports on the results of the search, and exchange information obtained. The designation, however, was to be used only when Customs officers were not immediately available; when requested by Customs; or when the search, seizure, or arrest could not be justified except by using the authority. Infrequent use was anticipated. Only about 250 agents holding this designation remain with DEA.

According to Customs headquarters, the use of this designation has been reported on only three occasions, although requested and refused on two additional occasions because Customs officials were available. Customs maintains that DEA does not need this authority as evidenced from the lack of use.

DEA, on the other hand, has documented 19 instances in which this designation has been used. Although we were unable to determine if all these instances had been properly reported to Customs, we did find that sometimes notification was given at the local level and not passed along to Customs headquarters.

DEA Use of Customs Search Authority , as of August 1975

DEA region		Number of times used	Arrests	Seizures
I.	Boston	-	-	-
II.	New York	7	5	Cocaine (1.1 lbs.)
III.	Philadelphia	-	-	-
IV.	Baltimore	-	-	-
V.	Miami	-	-	-
VI.	Detroit	3	9	Hashish (unspecified) Cocaine (38 grams) Marihuana (27.5 grams)
VII.	Chicago	1	-	-
VIII.	New Orleans	-	-	-
IX.	Kansas	-	-	-
X.	Dallas	4	5	Marihuana (166 lbs.) Hashish oil (4 oz.) Cocaine (4 oz.)
XI.	Denver	-	-	-
XII.	Seattle	4	-	-
XIII.	Los Angeles	-	-	-

As illustrated above, DEA has made little use of this designation during the past 2 years. Officials believe the designation has been of little value because of Customs' administrative restrictions.

In Texas, New York, and California, we found DEA officials and field agents who believe DEA's enforcement would not be hampered in the absence of the Customs authority. DEA had relied on Customs agents to assist and make searches when necessary and was satisfied with Customs' ability to respond. In addition, DEA field agents usually had sufficient probable cause to obtain a warrant and conduct a search on their own authority.

DEA headquarters officials, on the other hand, do not want DEA agents denied this enforcement tool. They would like to have all DEA agents given this designation and obtain a relaxation of the administrative restrictions imposed upon its use by Customs.

We believe that DEA, as the focal point for Federal drug law enforcement, should have at its disposal any appropriate enforcement tools that are legally justified and properly used. Customs' search and seizure authority is one of these tools. We believe that only DEA agents working in a border situation should have the designation, and it should be used only in the event Customs assistance is not readily available. It is recognized, however, that Customs needs to protect and control this authority to insure prudent utilization.

FBI ROLE IN DRUG LAW ENFORCEMENT

The role of the FBI in drug law enforcement as intended by Reorganization Plan No. 2 needs to be clarified. The Presidential message transmitting the plan and several statements by officials of the executive branch since enactment of the reorganization indicate that the FBI resources and methods would be used to assist DEA in its drug law enforcement responsibilities. Both agencies have interpreted the expansion role to mean exchange of information and intelligence at the operating level and have not materially changed their working relationship since the reorganization. The FBI is assisting DEA under the same guidelines used to assist State and local law enforcement agencies working on illicit narcotics traffic.

The Subcommittee on Reorganization, Research, and International Organizations of the Senate Government Operations Committee, in its report on the reorganization plan, recommended that the Attorney General prepare, and update at least annually, a formal plan covering the day-to-day coordination and cooperation between DEA and the FBI. No formal plan nor general memorandum of understanding between the two agencies has been developed.

Expanded FBI role needs clarification

The FBI's role in Federal drug law enforcement should be clarified if more is expected than the routine exchange of information and intelligence with DEA at the operating level.

At the time of hearings on Reorganization Plan No. 2 of 1973, various statements were made about FBI involvement in drug law enforcement. The plan itself is not specific and merely requires the Attorney General to provide for maximum cooperation between the FBI and DEA on drug law enforcement and related matters. The Presidential message transmitting the plan contains statements about committing FBI resources to assist in drug law enforcement but is not specific as to what the commitment should be. The message calls for "a more effective antidrug role for the FBI, especially in dealing with the relationship between drug trafficking and organized crime." It further states that the President intended "to see that the resources of the FBI are fully committed to assist in supporting the new Drug Enforcement Administration."

The Subcommittee of the Senate Committee on Government Operations, in its report on the reorganization plan was more specific in its comments on an expanded FBI role. The Subcommittee recommended that the Attorney General prepare, and update at least annually, a formal plan covering the day-to-day coordination and cooperation between DEA and FBI. Further, the Subcommittee recommended that this plan should require:

--A close working relationship on the use of informants.

--Daily headquarters liaison at high levels.

--Access to each other's intelligence memorandums relating to crime areas of mutual interest.

--Sharing of laboratory, identification, and training facilities and selected case records.

Since the reorganization plan went into effect, various statements have been made re-emphasizing that the FBI will play a greater role in drug law enforcement. The Federal budget for fiscal year 1975 stated that the FBI will place increased emphasis on drug intelligence collection to support intensified drug enforcement. The Strategy Council on Drug Abuse, consisting of several cabinet members and agency heads, stated in its Federal Strategy for Drug Abuse and Drug Traffic Prevention 1974, that the FBI "will begin systematic collection of domestic drug intelligence for the first time."

Although an expanded FBI role was expected, the nature, extent, and details have been left to the FBI and DEA to define. The FBI has taken steps to increase and formalize the dissemination of drug-related information and intelligence obtained from informants, but little is being done beyond this--such as having DEA provide the FBI with the names of and descriptive data on selected drug traffickers.

As previously mentioned, DEA and FBI have not developed a formal operating plan covering day-to-day cooperation as recommended by the Subcommittee.

DEA recognizes that there may be a need to clarify the FBI's role.

DEA headquarters' officials reported that the FBI's relationship with DEA (and BNDD before it) had been characterized by the mutual exchange of information and assistance which, over the years, helped both agencies function more effectively. They stated that excellent cooperation was received from the FBI and that the two agencies enjoyed a relationship of mutual respect. Furthermore, they stated that exactly what the Congress expected from the FBI's playing a more significant role was unclear to DEA. It was their feeling that, although the two agencies can and must assist and complement each other, their responsibilities differ and neither can perform the other's functions.

Sharing of information and related arrests and recoveries

The FBI for many years has shared information which could be helpful to other Federal, State, and local law enforcement agencies.

Our work in FBI and DEA field offices shows FBI cooperation and assistance has consisted, for the most part, of the exchange of intelligence information obtained by FBI agents in debriefing informants on drug matters. The exceptions to this have been (1) an occasional joint enforcement effort when violations under the jurisdiction of each agency have occurred and (2) DEA agents speaking to FBI training classes.

In August 1972, 10 months before the reorganization, pursuant to agreements between the Director of BNDD and the acting Director of the FBI, steps were taken by the FBI to provide more effective and expanded cooperation with other law enforcement agencies in the drug abuse field. Specifically, FBI headquarters instructed its field offices to:

--Step up liaison with other law enforcement agencies to speed and facilitate the exchange of data relating to illicit narcotics traffic.

--Designate a special agent in each field office as narcotics coordinator. All narcotics intelligence information was to be channeled through this agent.

--Debrief informants on at least a monthly basis regarding drug matters and pass such information through the narcotics coordinator to BNDD and local law enforcement agencies.

After enactment of the plan, the FBI sent other messages to its field offices reiterating the importance of fully cooperating with and assisting DEA. In addition to disseminating information as required by the August 1972 instructions, subsequent instructions (1) required periodic meetings with their DEA counterparts by the special agents in charge of 16 FBI field offices located in cities with Organized Crime Strike Forces and (2) informed all FBI field offices that progress in cooperating in the drug enforcement area would be monitored. We were informed that, since 1973, the FBI's Inspection Division has been instructed to monitor the effectiveness of drug intelligence work in its annual inspection of field offices. Also, several meetings at the headquarters level have been held between DEA and FBI to determine ways to achieve maximum cooperation without infringing on the jurisdiction of the other agency.

In the exchange of memorandums in 1973 between these agency heads regarding ways of increasing their impact upon the drug problem, the BNDD Director proposed to provide FBI field offices with lists and descriptive data concerning major narcotics violators so that information could be exchanged on these subjects. While the acting Director of the FBI expressed the opinion that this appeared worthwhile, such exchange has not occurred either at the headquarters level or in the Los Angeles area; it did occur to a limited extent in New York. As mentioned in our report on "Difficulties In Immobilizing Major Narcotics Traffickers," (see p. 7) BNDD took various actions to coordinate its enforcement activities with those of other law enforcement agencies. These actions included supplying the names of selected upper level traffickers (classes I and II) to the Internal Revenue Service. In our opinion, information on selected upper level traffickers should also be sent to the FBI.

DEA and FBI officials agreed and stated that DEA should provide the FBI with the names of selected high level subjects who may, because of their methods of operation come, within the jurisdiction of the statutes enforced by the FBI.

FBI statistics

DEA does not tabulate the number of referrals of information and intelligence given to or received from the

FBI. The FBI tabulates the total number of drug-related items disseminated to all other agencies but does not identify those provided specifically to DEA.

Nationally, according to statistics developed by the 59 FBI field offices, the following accomplishments were made in fiscal years 1973 and 1974 by other agencies, both Federal and local, on the basis of narcotics data disseminated by the FBI.

Fiscal year	Arrests Federal	Arrests Local	Recoveries (note a) Federal	Recoveries (note a) Local	Items disseminated (note b)
			(millions)	(millions)	
1973	215	816	$ 5.3	$9.8	19,273
1974	255	989	26.2	3.4	19,897

a/Includes narcotics, automobiles, and weapons seized at street values.

b/Not broken down between Federal and local.

Los Angeles

The statistics pertaining to the FBI's Los Angeles District Office showed the following accomplishments, including the results of information disseminated.

Fiscal year	Arrests FBI	Arrests Other Federal	Arrests Local	Arrests Total	Recoveries (note a)	Items disseminated Federal	Items disseminated Local	Items disseminated Total
					(millions)			
b/1973	12	6	38	56	$ 3.3	568	673	1,241
1974	11	25	54	90	14.3	1,694	1,888	3,582
1975	16	2	50	68	4.2	3,761	3,957	7,718
Total	39	c/33	142	214	$21.8	6,023	6,518	12,541

a/Represents street value of narcotics seized by Federal and local enforcement agencies.

b/Represents the 10-month period which began September 1972.

c/Twenty-three of the arrests were attributed to DEA.

The "items disseminated" figures could be misleading. In the absence of guidelines from FBI headquarters, the Narcotics Coordinator in the Los Angeles District has developed his own criteria for reporting accomplishments or quantifying information disseminated. In quantifying the items disseminated, the Narcotics Coordinator counts a name and physical description; a specific location, such as the city where a drug is distributed; a type of drug; a mode of shipment; and so forth, as separate items. Identical items disseminated to more than one agency are counted separately. For example, if data in a letter to DEA containing four items is also sent to the Internal Revenue Service, the Los Angeles Police Department, and Los Angeles County Sheriff's Office, it would represent 16 items disseminated--8 Federal and 8 local.

In fiscal year 1974, the reported accomplishments for the Los Angeles District represented a large portion of those reported nationally. Specifically, this office reported 19 percent of the items disseminated, 48 percent of the recoveries, and 7 percent of the arrests. A major portion of the arrests and recoveries were the result of only three cases made by DEA. These three cases involved 17 arrests and recoveries of about $11.5 million.

DEA said that in many instances the information received from the FBI had been vague or sketchy but that the quality was constantly improving. This improvement is attributable, in part, to the training sessions by the DEA's Los Angeles Regional Training Coordinator during 1974 and 1975. According to both DEA and FBI officials, the training was well received by the FBI agents. Approximately 90 percent of the FBI staff attended at least one of the sessions in 1974, and approximately 60 percent in 1975. One of the sessions covered the debriefing of informants on narcotic matters and the type of information that was needed.

Informal understandings exist regarding the exchange of information or intelligence that falls within the other's jurisdictional area. The agencies hold periodic meetings to discuss problems and any special information that one would like the other to obtain. Initially, the meetings were held monthly. At the time of our review, these regularly scheduled meetings were no longer considered necessary by officials of either agency because of frequent contact by telephone. They are held on an as-needed basis.

New York City

The FBI's New York field office sends drug related information to DEA by letter and telephone. FBI officials estimate that DEA is sent 25 pieces of information monthly.

We checked this estimate with DEA and their files generally supported the FBI statement. DEA said FBI information was generally good and had resulted in cases being developed.

While DEA has not provided the FBI with a large number of intelligence items, since 1974 it has made 17 major reports dealing with narcotics trafficking. At least one of these reports included the names of leaders and emerging leaders in narcotics trafficking. It supplied the FBI with the names of black narcotic violators (classes I, II and III) in New York City. DEA also supplies fingerprint cards to the FBI when it makes an arrest.

Dallas, El Paso, and McAllen

The officer in DEA's Dallas regional office responsible for liaison with the FBI told us that the exchange of information with the FBI had been limited and of little investigative or intelligence value. Further, there had been no periodic meetings between the agencies and DEA agents did not have access to FBI files.

According to the agent in charge in El Paso, DEA had very little contact or exchange of information with the FBI. He could recall only one undocumented referral from the FBI since the reorganization. In contrast to this, the intelligence officer at the McAllen district office said that there had been a free exchange of information and that DEA agents had been allowed to look at FBI files regarding information furnished.

Use of informants

FBI policy is to fully protect the informant's true identity and personal safety. No informant is turned over to another agency unless the informant is willing. Neither DEA nor the FBI maintain statistics on using FBI informants. DEA stated it had used FBI informants with increased frequency in the past 2 years, and on many occasions, both before and after the reorganization, FBI informants had been given assignments by DEA.

An FBI informant, used by BNDD in 1972, led to the seizure of nearly 174 kilograms of heroin (ranging from 84 to 100 percent in purity) in Miami, immobilizing a number of foreign and high-level U.S. drug traffickers. This seizure, according to the officials, was the largest ever recorded by a law enforcement agency in the United States.

Our work in Los Angeles, New York, and Texas indicates that only on infrequent occasions has an FBI informant been made available to DEA. For the most part, the use of informants has been limited to their debriefing by FBI agents, who then provide the information to DEA.

CONCLUSIONS

Federal agencies' cooperation and coordination on intelligence and drug enforcement activities has not materialized to the extent intended by the reorganization plan.

Improved cooperation is needed in enforcement activities along the border so that manpower and other resources can be more effectively deployed. DEA's intelligence gathering has been geared almost entirely to identifying major traffickers and eliminating sources of supply; little effort has been devoted to gathering intelligence to interdict drugs at U.S. borders and ports of entry. DEA and Customs have yet to agree on the routine sharing of drug intelligence and information; however, since June 1975 both agencies have taken steps to increase the flow of information.

Customs gave certain ex-Customs agents, transferred to DEA by the reorganization, its search and seizure authority. DEA has made little use of this authority due, in part, to restrictions placed on DEA field agents that are greater than those placed on agents of other Federal agencies possessing such authority. As the agency responsible for investigating suspects connected with illegal drugs entering the United States, DEA should have at its disposal any appropriate enforcement tools that are legally justified and properly used. The use of Customs' search and seizure authority in border situations is one of these tools and should not be denied to DEA. It is recognized that appropriate training may have to be provided by Customs.

The FBI role in drug law enforcement needs to be clarified if more is expected than the exchange of information and intelligence at the operating level. DEA and the FBI have interpreted the FBI role in a narrow sense and have not materially changed their working relationship since the reorganization. DEA headquarters has not provided the FBI with the names of and descriptive data on major traffickers. Such an exchange would seem to be a basic requisite to the FBI's playing a significant role in assisting Federal drug law enforcement and in exploiting the relationship between drug traffickers and organized crime.

We endorse the recommendation in the Domestic Council's September 1975 report calling for a settlement of the jurisdictional disputes between DEA and Customs. We believe, however, especially in light of the failure of a prior agreement brought about by a Presidential directive, that establishing such agreements will not solve the problem. It is questionable whether such agreements will ever work without a clear delegation of authority to someone acting on behalf of the President to monitor adherence to guidelines and tell agencies what is expected of them. We discussed this with officials of OMB and they agreed.

RECOMMENDATIONS

We recommend that the Attorney General:

--Require the Director of the FBI and the Administrator of DEA to (1) reach a formal understanding as to the role of the FBI in helping DEA to carry out its drug enforcement responsibilities, (2) develop operational guidelines to insure that agents at the working level are cooperating and exchanging the kind of information that will be useful to each agency, and (3) exchange names of and descriptive data on selected major traffickers.

--Require DEA to place increased emphasis on the gathering of intelligence information to interdict illicit drugs at U.S. ports and borders and make every effort to increase the flow of intelligence to Customs to that end.

- - - -

Although we did not request written comments from the agencies involved, our findings were discussed with them; and DEA and FBI generally agreed with the recommendations.

REPORT TO THE CONGRESS

BY THE COMPTROLLER GENERAL OF THE UNITED STATES

Smugglers, Illicit Documents, And Schemes Are Undermining U.S. Controls Over Immigration

Departments of Justice and State

By employing professional smugglers or using illicit documents, numerous aliens are able to successfully enter and/or remain illegally in the United States. Many illegal aliens are also engaging in schemes to obtain legal resident status. These activities are expected to increase seriously as it becomes more difficult to enter and/or remain in the United States illegally.

Several problems restrict U.S. controls. GAO is making legislative and administrative recommendations in this report to strengthen the Immigration and Naturalization Service's capability.

GGD-76-83

AUG. 30, 1976

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-125051

To the President of the Senate and the
Speaker of the House of Representatives

Today there is growing concern within the administration, the Congress, and the Departments of Justice and State over U.S. immigration problems. This report discusses organized methods to evade immigration laws and suggests ways to improve the Federal Government's efforts to control these activities.

We made this review to evaluate how professional smugglers, illicit documents, and schemes to obtain legal resident status were contributing to U.S. immigration problems and how the Federal Government was combating these organized methods.

Our review was made pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

Copies of the report are being sent to the Director, Office of Management and Budget; the Attorney General; and the Secretary of State.

ACTING Comptroller General
of the United States

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TO THE READER:

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COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

SMUGGLERS, ILLICIT DOCUMENTS, AND SCHEMES ARE UNDERMINING U.S. CONTROLS OVER IMMIGRATION

Departments of Justice and State

DIGEST

Two prominent proposals to solve U.S. immigration problems are (1) legislation to prohibit employment of illegal aliens and (2) issuance of a new alien identification card. This report deals with immigration problems which will increase, even if such legislation is passed and the new card issued.

U.S. controls over immigration are being undermined by numerous aliens who employ professional smugglers or use illicit documents to enter and/or remain illegally in this country. Many engage in schemes to obtain legal resident status. (See ch. 4.) These activities are expected to increase seriously as it becomes more difficult to enter and/or remain illegally in the United States. (See p. 1.)

The Congress should establish deterrents (1) to curb professional smuggling of aliens, including legal resident aliens who are involved and (2) to prevent aliens in the United States on temporary stays (nonimmigrants) who violate conditions of their entry from obtaining legal resident status by enacting legislation to:

--Permit deportation of legal resident aliens based on criminal convictions for smuggling offenses. (See pp. 23 and 28.)

--Give the Immigration and Naturalization Service discretionary authority to seize vehicles used in smuggling aliens. (See pp. 22 and 28.)

--Prohibit the adjustment of nonimmigrants to legal resident status if grounds for such status were acquired while nonimmigrants were in an illegal status. (See pp. 44 and 53.)

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The Department of Justice agreed with these recommendations.

SMUGGLING

Professional smuggling of aliens is growing in size and complexity. It is a lucrative criminal activity for many persons, often members of large organized rings. Less than half of the smugglers caught were prosecuted; the majority on a misdemeanor charge.

The Service's antismuggling efforts have had some good results, including immobilizing several large rings; however, problems exist which limit its effectiveness. (See p. 27.) The Attorney General should direct the Service to:

- --Use established procedures to identify multijurisdictional smugglers quickly.
- --Classify known smugglers by the size of their operation and put into place a system for evaluating the progress being made in immobilizing smuggling rings.
- --Determine if additional manpower should be assigned to antismuggling units.
- --Study the informant program to assess and improve its effectiveness in identifying and apprehending smugglers.
- --Begin efforts to obtain suitable surveillance vehicles.
- --Seek assistance from U.S. Embassy officials in obtaining cooperation from Mexican officials.

ILLICIT DOCUMENTS

Illegal aliens gain entry to and/or remain in the United States posing as citizens or legal resident aliens by using illicit documents. These are obtained easily and are difficult to discover. False identification crimes by illegal aliens are estimated by the Federal Advisory Committee on False Identification to cost $3.6 billion each year. (See p. 35.)

The Service's work to cut down the use of these documents may have a limited result. (See p. 42.) Accordingly, the Attorney General should direct the Service to:

--Increase personnel attendance at illicit document seminars.

--Determine if it is practical to periodically reissue or revalidate previously issued alien registration documents to help prevent illicit use of genuine documents.

--Establish an index of alien registration documents lost or stolen to tighten controls over the reissuance of those documents.

--Develop a system to provide quick verification of an alien's status for employers.

--Expand investigative efforts, such as investigating sellers and makers of illicit documents.

--Seek more cooperation from State and local agencies issuing birth certificates by increasing its scope of agreements with them and extending such agreements to all other appropriate birth certificate-issuing agencies.

SCHEMES TO OBTAIN LEGAL RESIDENT STATUS

Nonimmigrants violate conditions of their temporary entry. Aliens also enter into sham marriages or take advantage of weak investor exemption regulations to become legal residents.

Proposed changes by the Service and the Department of State to investor exemption regulations, if put into effect, would be a big step toward assuring only bona fide investors will be admitted. (See p. 50.)

The Service recognizes sham marriages as one of the most serious schemes encountered. To maximize Service resources, and to achieve a better and more consistent nationwide detection effort, the Attorney General should direct the Service to:

--Determine statistically those characteristics of marriages indicative of fraud. (See pp. 48 and 52.)

--Provide the Department of State with more information on the Service's actions to determine the validity of marriage relationships. (See pp. 49 and 52.)

AGENCY COMMENTS AND GAO EVALUATION

The Department of Justice concurred with GAO's legislative recommendations and agreed with the desirability of implementing GAO's other recommendations, but observed that its ability to do so was affected by the Service's limited resources. GAO recognizes the constraints imposed by resource limitations. It believes, however, that more can be done with existing resources, and its recommendations are presented with this in mind. (For details see pp. 22, 28, 43, and 52.)

CHAPTER 1

INTRODUCTION

The United States seeks to limit the number of aliens entering the country and to restrict entry only to aliens who can meet certain qualifications. These efforts are being seriously undermined by numerous aliens who illegally enter the country and/or remain in the United States posing as citizens or legal resident aliens (LRAs) by employing professional smugglers or using illicit documents. Additionally, many aliens are engaging in schemes to obtain legal resident status.

Such acts are expected to increase greatly even if legislation is passed and greater resources devoted to discourage unassisted aliens from illegally entering and remaining in the United States.

IMMIGRATION INCENTIVE IS ECONOMIC

The primary motivation for most aliens to immigrate is economic. While lowpaying by U.S. standards, the wage rates of most alien-held jobs far exceed the wages available in the alien's home country. For example, in 1973 it was estimated that the per capita income of the poorest 40 percent of Mexican population was less than $150 a year. About 72 percent of the 140,700 employed illegal aliens apprehended by the Immigration and Naturalization Service (INS) from January to September 1975 earned $2.50 or less an hour. Also, once aliens are in the United States they can take advantage of other economic benefits, such as welfare payments and free medical care.

SOLUTIONS TO THE PROBLEM

The most common proposed solutions to the illegal alien problem seek to reduce incentives for illegal entry or to increase the resources allocated to prevent illegal entry.

Legislation has been introduced in recent years to restrain employers from hiring illegal aliens by making it unlawful to knowingly employ such aliens. The House of Representatives approved such bills in 1972 and 1973, but they were not acted upon by the Senate.

In a previous report GAO recommended that the Senate give favorable consideration to aspects of House bill 982 which make it unlawful to hire illegal aliens. 1/ The current version of this House bill, 8713, was submitted to the House in September 1975 by the Committee on the Judiciary. On March 4, 1976, bill 3074 was introduced in the Senate which would make it unlawful to knowingly employ illegal aliens. The bill was referred to the Subcommittee on Immigration and Naturalization, Committee on the Judiciary.

A February 1976 Supreme Court ruling stated that the absence of Congressional action did not preclude the States from outlawing the hiring of illegal aliens within their respective jurisdictions.

The Social Security Administration in March 1974 carried out legislation to prevent aliens from obtaining Social Security cards without proof of legal status. The Department of Health, Education, and Welfare issued regulations that prohibited the payment of certain federally funded welfare benefits to illegal aliens.

Increasing INS resources to prevent illegal entry has been widely recommended. In the last 5 years INS' apprehensions of illegal aliens has increased 97 percent while its authorized manpower has increased 12 percent. For fiscal year 1976 INS has been granted resource increases of 750 personnel and $30 million over the fiscal year 1975 authorization of 8,082 personnel and $180 million. INS had requested an additional 3,080 personnel and $64 million. The INS Commissioner stated that the additional resources granted will enable them to close off many avenues of illegal entry, open up many thousands of jobs held by illegal aliens, and take thousands of illegal aliens off welfare rolls.

Actions taken, plus the issuance of the new alien identification card (see p. 38), will make it more difficult for an alien to illegally enter and/or remain in the United States unassisted. Passage of the proposed legislation to prohibit employing illegal aliens will also put increased pressure on such aliens to seek assistance.

ADMINISTRATION OF IMMIGRATION LAWS

The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) prescribes the conditions for admission and stay of immigrant and nonimmigrant aliens. The act authorizes the

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1/ "More Needs to Be Done to Reduce the Number and Adverse Impact of Illegal Aliens in the United States," B-125051, July 31, 1973.

Attorney General and the Secretary of State to administer and enforce the immigration laws. This is primarily carried out by INS and the Visa Office, Bureau of Security and Consular Affairs, Department of State.

INS administers and enforces the laws for admitting, excluding, deporting, and naturalizing aliens. The enforcement and examinations operating groups are principally concerned with identifying and investigating aliens who violate immigration laws.

The Visa Office administers and enforces the law for issuing or refusing visas to foreigners desiring to come either permanently or temporarily to the United States. The overseas U.S. consulate offices screen foreigners about their qualifications and eligibility to enter the United States.

SCOPE OF REVIEW

Previous GAO reports (see app. I) have discussed several aspects of the immigration problems facing the United States. This report evaluates INS' success in (1) immobilizing professional smugglers who aid aliens in violating immigration laws and (2) detecting illicit documents and schemes to obtain immigration benefits. We also evaluated the Visa Office's role in detecting fraudulent visa applications presented by Mexican citizens desiring permanent residence in the United States.

We reviewed the laws prescribing the conditions for entry of immigrants and nonimmigrants into the United States and examined INS policies, procedures, and practices for preventing the smuggling of aliens and for detecting illicit documents or schemes to obtain immigration benefits. At American consulates in Mexico, we reviewed the policies, procedures, and practices for detecting sham marriages.

Locations visited

We made our review at:

--INS central office, Washington, D.C.

--INS regional offices in Burlington, Vermont, and San Pedro, California.

--INS district offices in Boston, Massachusetts; Chicago, Illinois; El Paso and San Antonio, Texas; Los Angeles, California; and New York, New York.

--Border Patrol sectors in Chula Vista and El Centro, California; Del Rio and El Paso, Texas; Swanton, Vermont; and Yuma, Arizona.

--American consulates in Guadalajara, Mexico City, and Tijuana, Mexico.

CHAPTER 2

PROFESSIONAL SMUGGLERS OF ALIENS

While INS border defenses are often successful at preventing illegal entries, foreigners assisted by professional smugglers have a greater chance of eluding detection than those attempting to enter unassisted. Less than half of all known smuggling violations are prosecuted. Even when prosecuted, smugglers are generally only punished by light fines and/or short sentences. The smuggling of aliens has become an extremely lucrative illegal venture and is one of the major problems confronting INS.

Aliens' chances of successfully entering the United States illegally and reaching desired locations are greatly increased by professional smugglers who are often aware of INS defenses and use special methods to evade them.

--Guides lead aliens around Border Patrol agents or through normally inaccessible areas.

--Small groups of aliens are used as decoys to divert the attention of Border Patrol agents so larger groups can enter undetected.

--Scout cars with two-way radios warn vehicles smuggling aliens of the location of Border Patrol agents.

--Aliens are hidden in special compartments of vehicles.

--Illicit documents are furnished to aliens to enable them to enter the United States through ports-of-entry.

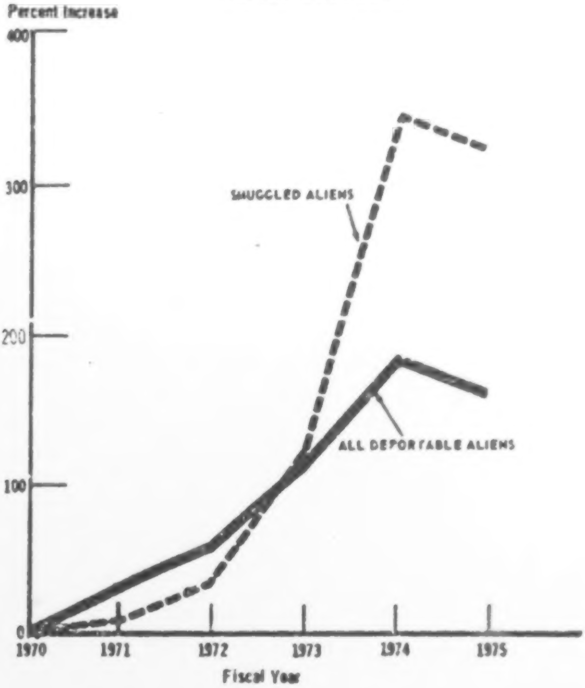
--Aliens are transported by airplanes or boats that bypass ports-of-entry.

Apprehension of illegal aliens has increased tremendously. Increasing numbers admit having been assisted by smugglers. In fiscal year 1970 only 8.4 percent, or 18,286, of the 218,676 illegal aliens apprehended by the Southwest

Region Border Patrol 1/ had been smuggled. In fiscal year 1975, 13.5 percent, or 76,862, of the 568,550 illegal aliens apprehended had been smuggled. The following graph, based on INS data, demonstrates the increasing prominence of smuggling.

SMUGGLING ON THE RISE

A COMPARISON OF SOUTHWEST REGION BORDER PATROL APPREHENSIONS, FOR 5 YEARS, WITH 1970 AS THE BASE YEAR



1/Included the following States: California, Nevada, Utah, Arizona, Wyoming, Colorado, New Mexico, Oklahoma, Texas, and Hawaii. In January 1976, INS realined its four regional boundaries and redesignated them as the Eastern, Northern, Southern, and Western Regions.

Border Patrol officials said that apprehension statistics understated the smuggling problem. Many smuggled aliens are not apprehended. Those apprehended are not always thoroughly interrogated after apprehension due to time constraints or they may be warned by smugglers not to tell their entry arrangements.

Several cases encountered by INS in fiscal years 1974 and 1975 suggest how proficient smugglers are.

--Apprehended smugglers said their ring was successful in transporting groups of 6, 37, 39, 49, 74, and 128 Mexican aliens to the Chicago area.

--A member of a Texas smuggling ring said he had successfully smuggled about 175 aliens and received $150 an alien, or a total of about $26,000.

--Near Laredo, Texas, Border Patrol agents stopped a pickup truck and two motor homes carrying 124 illegal aliens. One smuggler had $18,000 in his possession.

--Arkansas Transportation Commission authorities turned over to INS a trailer van with 52 illegal aliens.

GROWING IN SIZE AND COMPLEXITY

There has been a significant increase in the number of large, organized smuggling rings identified by INS. The rings are particularly difficult to immobilize because the leaders often stay removed from the actual smuggling act. The following are examples of large rings which have been penetrated by INS.

--In 1973 the Las Hueras ring was broken up after a 3-year probe by INS officers; 25 persons were indicted. The ring was smuggling up to 50 aliens a day into the Los Angeles area from Tijuana.

--In 1974 a ring was broken up which involved the smuggling of illegal aliens by Marines and former Marines of Camp Pendleton, California. Twenty-eight persons were involved in smuggling over 1,000 aliens a month.

--In 1975 two rings in Texas with 16 and 14 members, respectively, were disrupted by the arrests and convictions of 16 members. Both rings are believed to be active, each smuggling 75 to 100 aliens a month.

Smugglers boost entry of illegals

Professional smugglers increase the illegal alien problem by soliciting clients in other countries and deep in the interior of Mexico. These aliens generally do not have the knowledge and experience necessary to illegally enter and travel in the United States. Professional smugglers provide this assistance and, in some cases, furnish inducements such as entry guarantees, credit terms, and job placement.

INS is encountering growing numbers of aliens coming from certain Central and South American countries, particularly Guatemala and El Salvador. (During fiscal year 1974 the Southwest Region spent about $1.6 million on plane fares alone to remove aliens from the United States, which is about 83 percent of its total removal expenditures.)

Smugglers spread the problem in the United States

The illegal alien population, estimated by INS to be about 6 million as of March 1976, is being dispersed throughout the United States, at least in part, by professional smugglers of aliens.

In Chicago where the illegal alien population is estimated to exceed 250,000, INS officials estimated that up to 50 percent of them were assisted by organized smuggling rings. In the Livermore Border Patrol sector near San Francisco, about 25 percent of the 56,000 illegal aliens apprehended in fiscal year 1975 had been smuggled. In Texas, several professional smugglers have been identified who recruit clients from among illegal aliens working in Texas agricultural fields to go to Chicago, New York, and other interior destinations.

Mistreatment of illegal aliens by smugglers

Although they pay fees of $300 and more to smugglers, aliens have been treated inhumanely and even killed. A smuggler was arrested in San Diego for raping a female he smuggled in from Mexico. Another smuggler instructed his cohorts to dump aliens in a ditch and continue on if aliens should become sick or die. A group of 24 aliens apprehended in Los Angeles had been held in a large truck for 2 days without food or water.

IMPROVEMENTS NEEDED TO COMBAT SMUGGLERS

INS has recognized the serious impacts of professional smugglers and, since 1973, has initiated several steps to improve its antismuggling efforts. These efforts have had good results, including the immobilization of several large smuggling rings during fiscal year 1975. However, problems exist in the following areas:

- --The system designed to promptly identify multijurisdictional smugglers has been ineffective.
- --An adequate system has not been established to evaluate progress made by antismuggling units or to concentrate resources on major violators.
- --Persons assigned antismuggling responsibilities are generally saddled with other responsibilities which take much, if not most, of their time.
- --Insufficient management emphasis has been placed on developing an effective informant system.
- --Few vehicles suitable for undercover surveillance have been given to antismuggling units.

INS Border Patrol forces are concentrated primarily in its Southwest Region due to the proportion of aliens (90 percent) entering illegally from Mexico.

Selected Fiscal Year 1975 Border Patrol Apprehension Statistics

	Total apprehensions	Located by	
		Southwest Region	Other regions
		(percent)	
Deportable aliens	596,796	95	5
Smugglers of aliens	6,859	92	8
Smuggled aliens	80,203	96	4

The three other INS regions have had an increase in alien smuggling activity in recent years. Smuggling from Canada into the United States of aliens of various nationalities, particularly Jamaican, Chinese, and Italian, is a problem, but in terms of numbers, smuggling from Mexico is by far the most serious problem.

The responsibility for apprehending smugglers is shared by two separate groups within INS: the Border Patrol sectors and district office investigation units. In the Southwest Region, there are about 1,500 Border Patrol agents distributed among 10 geographical sectors, 9 along the Mexican border and 1 in central California. About 50 of the agents, at least one in each sector, are antismuggling specialists.

The seven continental U.S. district offices in the Southwest Region geographically overlap the sectors and extend further into the interior. These districts have a total of about 300 investigators. Only two district offices have established antismuggling units. The Los Angeles district office has a unit of four investigators and San Antonio has two. In other districts, smuggling cases are assigned to investigators who primarily work other types of cases.

Primarily because of its proximity to the border, the Border Patrol accounts for about 80 percent of the smugglers apprehended.

Coordination of antismuggling efforts can be strengthened

INS has not established an effective data bank to quickly identify professional smugglers operating in several geographical areas.

Professional smugglers often operate in several INS geographical areas of responsibility. The Southwest Region believes that there are three major centers of organized smuggling in which the rings operate, covering several field offices. About 18 percent of the 371 smugglers listed in the INS Smugglers Index have been apprehended in more than one sector or district. One smuggler changed his base of operations from Texas to Arizona.

The field offices are responsible for developing information regarding the scope of a smuggling ring. Each office is expected to notify other offices about a ring operating in its area, and to coordinate strategy and manpower.

To assist its field offices in determining if a smuggler is operating in other areas, the Southwest Region in May 1974 directed its Antismuggling Information Center 1/

1/The Mexican Antismuggling Information Center was maintained by the Chief Patrol Agent at Yuma, Arizona. All appropriate INS offices submit information on known, apprehended smugglers and the Center maintains an index of this information.

to establish an index of smugglers suspected of belonging to organized rings. The Center had not previously pinpointed the involvement of organized rings.

The organized-ring index has been of little value in accomplishing its objective because field offices have not fully cooperated and the Center has not fully analyzed the information it has. After 11 months, the index consisted of 310 inputs, most gathered from reports not specifically directed to the Center. One Border Patrol sector was responsible for 42 percent of the inputs, while the sector with the greatest amount of smuggling activity was responsible for 7 percent.

The Supervisor of the Center said that the indexed data is not analyzed for patterns or trends and information is disseminated only when requested. In fiscal year 1974 the Center received 8,700 requests for information. It had information in its files for about 11 percent of the requests received.

In March 1976 INS moved its Mexican Antismuggling Information Center, Air Detail Office and Fraudulent Document Center (see p. 34) to the El Paso Intelligence Center. The Center is a joint Drug Enforcement Administration (DEA) and INS intelligence center designed to serve those agencies having law enforcement responsibilities in the U.S.-Mexican Border area. INS plans to use the Center's analytical staff to obtain special studies and analyses. Increased cooperation from field offices is needed, however, to obtain and maintain an adequate organized-ring data base.

Progress measured by number of smugglers apprehended, not importance

Although the Southwest Region directed its field offices to concentrate on disrupting the operations of major violators, the only measurement of progress is the number of smugglers apprehended. All persons connected with a smuggling operation, from the most important ringleader to the least consequential transporter, are termed smugglers.

INS has been criticized in the past by its own personnel and by U.S. attorneys for doing little to immobilize major violators. Regional officials indicated that until May 1974, when emphasis was placed on disrupting rings, the only smugglers apprehended were generally transporters.

In May 1975 the Border Patrol sectors were told to list all rings identified during fiscal year 1975, including the ring size and its estimated impact (aliens smuggled each month). The results showed a large variance in the size of rings and apparent confusion concerning what constituted a ring. A Border Patrol official said that he hoped antismuggling personnel considered rings to be continuous, profit-making operations involving several participants. However, analysis of the information submitted by the sectors indicated that many "rings" were not ongoing operations but one-time affairs. For example, one sector submitted information on 131 of the 229 rings that were reported. Of these

--28 had 1 member,
--72 had 2 members,
--21 had 3 members, and
--10 had 4 or more members.

Information on 44 rings submitted by another sector ranged from 2 to 24 known members per ring.

DEA faced a similar problem in evaluating the impact of its efforts to disrupt major drug traffickers before July 1972. At that time, DEA established a classification system based on the relative importance of drug traffickers. For example, class I consisted of violators who are major illicit laboratory operators, heads of criminal organizations, drug smuggling heads, or dealers in volume quantities. DEA believes this system has enabled it to effectively evaluate progress and allocate resources more efficiently.

Efforts weakened by too few personnel and sporadic emphasis

INS has not had a consistent antismuggling effort. Border Patrol antismuggling agents are assigned other duties which take much, if not most, of their time. District office investigation units have had radical shifts in the number of personnel assigned to antismuggling.

Border Patrol antismuggling agents have little time for their primary duties: informant development, active pursuit of smugglers, and liaison with Mexican officials and local police agencies. Most of their time is spent preparing paperwork, including clerical duties, for presenting the Government's case before U.S. magistrates.

As a consequence, the antismuggling agents have insufficient time to pursue investigation of major violators, which often requires prolonged, detailed work. The agents said that most smugglers apprehended are lower echelon violators.

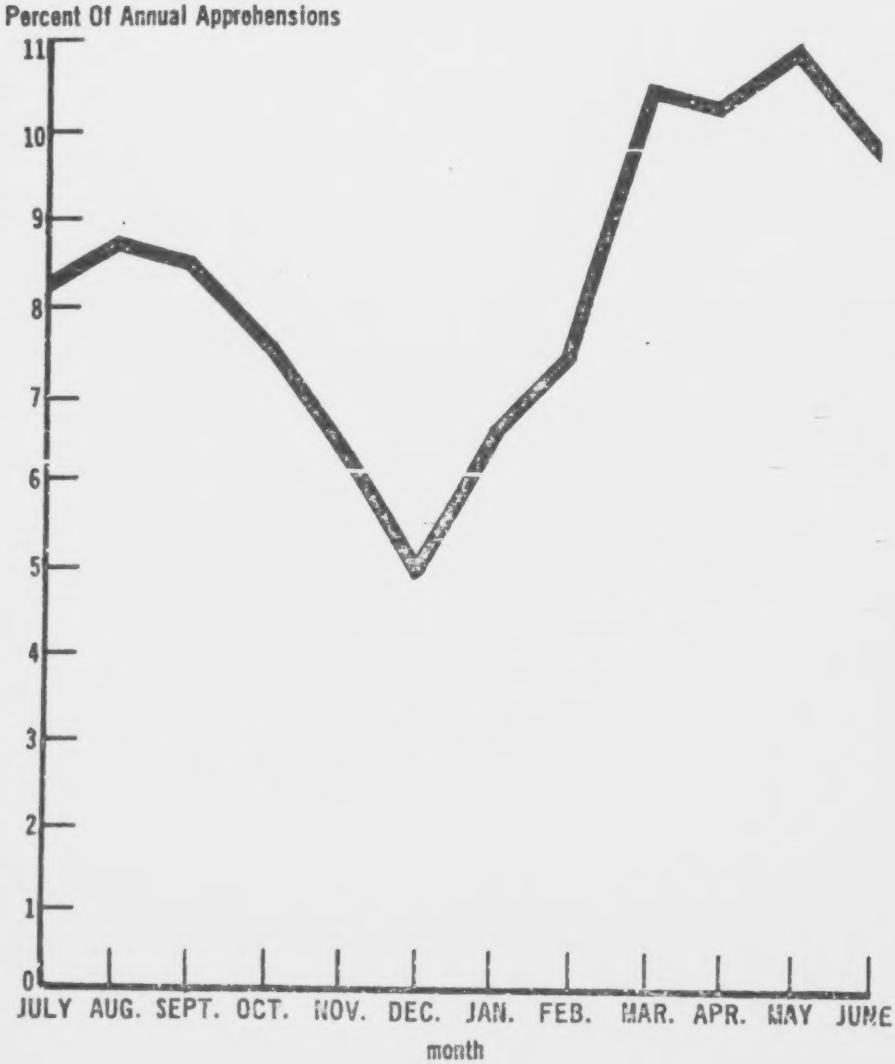
We recognize that it is not feasible to relieve antismuggling agents of related functions in favor of full time devotion to liaison and informant development and concur with INS that the most knowledgeable agent should be available to present the case for prosecution. We believe, however, that INS should consider relieving these agents of some of their duties, particularly with regard to clerical functions, so they can devote more time to their primary duties.

The Southwest Region has requested additional antismuggling agent positions but has received only 1 since April 1974, when it requested 32. The region will receive an additional 188 Border Patrol agent positions during fiscal year 1976, but none will be antismuggling agent positions because of central office emphasis on linewatch activities (which for the most part involve establishing a visible presence of enforcement manpower at the border).

In March 1973 the region suggested that each sector detail journeyman agents to prepare cases for prosecution, thereby relieving antismuggling agents for their primary duties.

Assignment of journeyman agents to antismuggling units appears to be particularly feasible during certain months of the year, because, as the following graph shows, the workload of the Border Patrol is highly seasonal. Journeyman agents might be so assigned without disrupting other operations.

SEASONAL BORDER PATROL APPREHENSIONS
(FISCAL YEARS 1970-74)



The Del Rio sector supplements its antismuggling unit with journeyman agents. Normally, the unit is assisted by 4 journeyman agents; as many as 11 have been assigned for limited periods of time. The Chief Patrol Agent said that the journeyman agents have been essential to the unit's success. Regional officials believe that Del Rio has one of the most effective antismuggling programs in the Southwest Region.

Since the central office strengthened central control of program priorities in October 1974, district office antismuggling activities have shifted radically. For example, before October 1974, two or three investigators in the Chicago district office spent about 15 percent of their time on antismuggling activities. After the October emphasis on these activities, the Chicago antismuggling staff expanded to 13 full-time investigators. However, in response to revised priorities from the central office, as of March 1975, only one investigator was assigned to the antismuggling unit. As a consequence, 60 pending leads developed by the enlarged antismuggling unit were not followed up.

We believe that INS should evaluate its resources to determine if additional manpower should be assigned to antismuggling units.

Use of informants should be expanded

INS' use of informants varies widely in the Southwest Region. It is constrained by insufficient emphasis provided by higher officials, limited reward funds, and hesitation by antismuggling agents to use informants.

The importance of informers is indicated by a saying common among law enforcement officers: "An officer is just as good as his informers." INS believes that the success of an antismuggling operation often depends totally on developing reliable informants.

However, since October 1974 the central office has placed low priority on the Border Patrol's developing informants. In addition, central office internal inspectors have made extensive probes into the relationships between INS personnel and informants for possible criminal violations. As a consequence, antismuggling agents have become reluctant to enter into these relationships.

The most effective INS informants are Mexican aliens who are part of the scene where smugglers operate and who are willing, for some form of compensation, to provide information. INS can grant parole status, 1/ pay cash rewards, or do both. Parole status allows aliens the opportunity to visit the United States. One type of parolee may work and live here, while the other type may only enter for periods less than 24 hours. Informants are not compensated unless their information proves to be reliable and has results. The antismuggling agents stated that paid informants provide the most reliable information, not only because of a monetary interest but also because of their greater knowledge.

INS also receives information regarding smuggling from persons without a monetary interest but who are interested in reducing the illegal alien problem. The agents said that it has become increasingly common for people to report a smuggling offense when there is no evidence of smuggling involved, just to insure that INS will take action to remove illegal aliens.

As of July 1975 the Southwest Region had a total of 235 paroled informants as follows:

	In the United States in parole status	Residing in Mexico-authorized parole for less than 24 hours for multiple entries
Border Patrol	111	107
District offices	2	15
	113	122

The number of paroled informants per Border Patrol sector varied considerably. For example, one sector with nine antismuggling agents had only six informants. Another sector with 4 antismuggling agents had 59 informants. A regional official said that the use of informants is often wholly dependent on the attitude of the Chief Patrol Agent.

1/Section 212(d)(5) of the Immigration and Nationality Act states: "The Attorney General may in his discretion parole into the United States temporarily under such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien applying for admission to the United States * * *."

Antismuggling agents said that they were limited in developing informants because of the inadequate compensation available. INS spent $41,000 for reward payments during fiscal year 1975.

Reward payment information was obtained at two sectors. INS policy is that rewards may not exceed $100 without authorization from the central office. Payments for information by the Chula Vista and Del Rio sectors show how little money is available for rewards and the disparity in its use between sectors.

Reward Payments
May 1, 1974 to April 30, 1975

	Chula Vista	Del Rio
Antismuggling agents	14	4
Number of informants	19	59
Monthly reward fund	$ 300	$ 500
Total rewards paid out	$2,018	$4,725
Number of rewards	38	164
Average reward	$ 53	$ 29

At two sectors, antismuggling agents said many persons were usually not recruited as informants if they would not accept parole status as their reward.

The agents said that without more reward funds it would be extremely difficult to obtain informants capable of implicating higher echelon smugglers. Ihformants have to be compensated for the risks they take.

Inadequate and insufficient vehicles available for surveillance

Most vehicles available for surveillance are easily identified as enforcement vehicles. Though unmarked, they are late-model, one-tone, four-door sedans, usually with tires marked "POLICE SPECIAL."

Although adequate for general use, these vehicles are too conspicuous to be used for surveillance. According to several antismuggling agents, any late-model vehicle would be ineffective in the areas often surveyed. They believe that older vehicles, particularly vans and pickups would be better for surveillance.

The Chula Vista and Los Angeles antismuggling units share an old van for surveillance. The agents thought that the van was a perfect cover, but were concerned that using it too much would expose its purpose. Agents in one sector said they had used their personal vehicles for surveillance.

The Customs Service and DEA often seize vehicles that would meet INS' needs. When forfeited, these vehicles can be transferred to Government agencies in accordance with the appropriate procedures. The Attorney General can retain forfeited vehicles seized by DEA for the use of INS.

Southwest Region officials agreed that their surveillance vehicles are inadequate. However, they had not tried to obtain forfeited vehicles.

MORE DETERRENTS ARE NEEDED TO CURB SMUGGLING

Criminal prosecution efforts are limited as an effective deterrent to smuggling because

--less than half of all violations are prosecuted,

--many cases are reduced to misdemeanors for expediency, and

--punishments are generally minimal.

INS needs more deterrents such as the authority to confiscate smuggling vehicles and legislation to facilitate deportation of legal resident aliens involved in smuggling.

Alien smuggling is a felony punishable by a fine, not to exceed $2,000, or imprisonment, not to exceed 5 years, or both, for each smuggled alien. However, as shown by the following chart, less than half of the smugglers caught were prosecuted; the majority on a misdemeanor charge.

Smuggling Offenses--Fiscal Years 1973-75

	1973		1974		1975	
Total violations		8,389		10,814		7,67
Prosecuted as a felony	1,279		1,172		1,006	
Prosecuted as a misdemeanor	2,785		3,808		2,615	
Total		4,064		4,980		3,62
Percent prosecuted		48		46		4
Number of convictions		3,472		4,366		2,93
Percent convicted		85		88		8
Average net fine imposed (note a)		$78		$89		$9
Average net sentence imposed (days) (note a)		89		95		95

a/Sentence or fine imposed, less any suspended portions.

The decision to prosecute rests with the cognizant U.S. attorney. In some districts INS has been told not to seek prosecution of some violations under certain conditions. In other districts, the U.S. attorney determines whether INS may seek prosecution on a case-by-case basis. Representatives of U.S. attorneys indicated that prosecution of immigration violations was limited due to higher priorities of other offenses.

Because of the constraints on prosecution, the San Diego U.S. attorney has restricted the prosecution of smugglers to those who

--have committed a previous violation,

--are members of an organized ring, or

--aggravated their offense, for example, by assaulting an INS officer.

Other U.S. attorneys will not seek prosecution unless it can be proven that the smugglers had a monetary gain.

The attitudes of judges and magistrates in certain districts toward immigration violations is also a factor limiting prosecutions. U.S. attorneys in New York and Massachusetts generally stated that district court judges are not receptive to trying immigration cases.

The chart below shows how prosecution policies vary in the Southwest Region. It also demonstrates the vast disparity in sentencing, apparently caused, in part, by differing judicial attitudes toward the smuggling offense.

Smuggling Violations
Selected Districts and Sectors
Southwest Region
Fiscal Year 1974

	District		Sector	
	Los Angeles	San Antonio	Del Rio	El Centro
Total violations	1,777	173	558	614
Authorized for prosecution by the U.S. attorney (percent) (note a)	13	82	62	62
Prosecuted as a felony (percent)	3	30	7	4
Number of felon convictions	34	18	15	20
Average net sentence (months)	14	9	25	3
Average net fine	$207	$150	$-	$228

a/Most of these cases were prosecuted as misdemeanors before U.S. magistrates. INS officials believe that prosecuting cases as misdemeanors has expedited the handling of cases and resulted in relatively higher sentences and fines.

Need authority to confiscate vehicles

INS should be given discretionary authority to confiscate vehicles used in smuggling aliens. Confiscation of vehicles would serve as an economic deterrent by raising the smugglers' costs and discouraging aliens who cannot afford the higher costs.

Many vehicles are used to smuggle aliens. For example, during fiscal year 1974 the Chula Vista and El Centro sectors stopped 2,700 vehicles smuggling aliens. In 1973 the San Clemente, California, interior checkpoint stopped 22 vehicles with smuggled aliens in just over an hour.

Smugglers use a variety of models and types of vehicles. Our analysis of 1,537 vehicles apprehended by the Chula Vista sector during the period January through September 1974 showed that

--79 percent were pre-1971 models and

--18 percent were pickup trucks, small vans, and motor homes.

When vehicles are stopped and aliens removed, the vehicles are left where found or towed to impound lots to be claimed by their owners. According to officials of one sector, most vehicles are reclaimed soon after being stored and, as a consequence, some are used over and over again by smugglers. For example, a 1972 Pontiac was caught five times over a 2-year period. A 1974 truck was caught four times; the first on December 28, 1974, and the second on January 13, 1975.

DEA and the Customs Service may confiscate vehicles used to transport narcotic drugs or contraband. The Congress supported vehicle seizure authority when it concluded that vehicle seizure was necessary to incapacitate and penalize criminal offenders.

In commenting on our report, the Department of Justice concurred that INS should be given discretionary authority to confiscate vehicles used in smuggling aliens. The Department stated that such authority would substantially increase the penalty in many cases, and would discourage other aliens who could only marginally afford the price for participation. In addition, the Department commented that vehicle seizure authority would significantly improve the morale of Border

Patrol employees who see the need for some positive action to be taken to immobilize and penalize smugglers of aliens.

Deportation is rarely used

Though legal resident aliens (LRAs) are frequently involved in alien smuggling, we found that very few are deported. Section 241(a)(13) of the Immigration and Nationality Act makes subject to deportation any LRA who knowingly and for gain, encourages, induces, or aids any other alien to enter or try to enter the United States in violation of law. The offense may occur before or at the time of any entry or at any time within 5 years after the LRA's entry into the United States.

Although the law provides for deportation, the "for gain" element of the statute considerably limits the number of deportation cases because of the need for alien witnesses. The testimony of smuggled aliens is needed to establish the grounds for deportation. Smugglers often warn aliens not to testify or INS cannot hold the aliens long enough to appear at the deportation hearing. Affidavits of aliens are rarely acceptable because defense attorneys do not have the opportunity to cross-examine.

The "for gain" element of the deportation statute need not be proven for a criminal conviction of a smuggling offense. According to two immigration judges, the "for gain" element was probably included to prevent deportation of LRAs for smuggling their immediate families, which was predominant at the time the law was enacted.

Over one-fourth of the smugglers apprehended by INS are legal resident aliens. The following table shows the citizenship status of smugglers apprehended by INS from July 1969 through December 1973, as reported to the Antismuggling Information Center.

Status	Number	Percent
U.S. citizen	8,635	39
LRA	6,186	28
Illegal alien	4,059	18
Border crossing card holder (note a)	683	3
Unknown	2,823	12
Total	22,386	100

a/Mexican citizens granted the right to visit the United States within 25 miles of the border for periods up to 72 hours.

LRAs have been identified as leaders of major organized rings. For example, several leaders of the Las Hueras ring (see p. 7) were LRAs. LRAs played major roles in many of the organized rings identified by the Chula Vista sector.

The number of LRAs deported for violating section 241(a)(13) is not maintained separately by INS but is included in a miscellaneous category. The number of miscellaneous deportations averaged 23 a year from 1961 through 1974.

INS officials said that deportation would be a more effective deterrent for some LRAs than criminal prosecution. One immigration judge said legal resident status is an alien's most valuable possession.

The Los Angeles district director, a former regional counsel, indicated in a memorandum to the Southwest Region that a new ground should be established for deportation based on criminal convictions for alien smuggling. Deportation could then be accomplished by presenting records of convictions.

INS considers various humanitarian factors before instituting deportation proceedings against a LRA, such as the impact on society if he be deported and not be able to support his family remaining in the United States. LRAs smuggling in members of their immediate family is another factor which is considered by INS before deportation is requested.

Because of the many LRAs involved in the smuggling of aliens and the relatively few who are deported, the law should be changed to permit the deportation of LRAs based on criminal convictions for smuggling offenses. If this change in the law is enacted deportation would be a viable deterrent to LRAs involved in smuggling.

COOPERATION FROM MEXICO MIGHT BE IMPROVED

Though the Government of Mexico probably will not take substantial enforcement action to prevent illegal migration of Mexican nationals into the United States, it is interested in preventing mistreatment of its citizens.

The Special Study Group on Illegal Immigrants from Mexico [1] reported in 1973 that increased enforcement efforts to prevent illegal migration were unattractive to Mexican officials because it would put them into a position of making "a 'police crackdown' on their own citizens who are, after all, only trying to find employment." In addition, the study group concluded that Mexico realizes certain economic benefits from illegal migration through

- the earnings sent by employed illegal aliens to relatives in Mexico [2] and
- the alleviation of its critical unemployment problem through transfer of willing workers to the United States.

Embassy officials in Mexico City thought that elimination of the illegal migration "safety valve" could have serious social and economic consequences for Mexico.

Mexico passed laws in 1974 that provide penalties up to 10 years imprisonment and/or fines up to $4,000 for aiding the illegal migration of Mexican workers. INS officials in Mexico City stated that Mexican Federal authorities have also urged border enforcement officials to cooperate with INS in immobilizing alien smugglers.

Liaison with Mexican officials is generally a function of the Border Patrol sectors. Informal agreements usually provide for an exchange of information and in some cases have resulted in joint efforts against certain smugglers. According to sector officials, obtaining good cooperation is difficult because:

- Drugs or other violations often are higher priorities for Mexican authorities.

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[1] The study group comprised of Representatives from the Departments of Agriculture; Health, Education and Welfare; Justice; Labor; and State, was established in August 1972 at the direction of the President to undertake a comprehensive exploration of the problems relating to illegal immigration from Mexico.

[2] Estimated at tens of millions of dollars annually.

--Agreements reached generally are dependent upon the attitude and reliability of Mexican officials who change office frequently.

Effective liaison can be rewarding. Liaison efforts of the Del Rio sector resulted in prosecuting 14 members of organized smuggling rings by Mexican authorities during fiscal year 1975. Of the 14 members, 8 were convicted, 1 released, and final dispositions of 5 were not known. Seven persons received prison terms averaging 5.7 years. One other was fined $2,400.

Across from the Chula Vista sector, Mexican authorities apprehended and prosecuted a notorious smuggler who had been operating for 15 years. He was sentenced to imprisonment for 6 to 10 years. Mexican officials also raided three known vendors of illicit U.S. immigration documents and confiscated approximately 830 documents.

Such results, however, are not typical along the border. In April 1974 El Paso sector officials reached an agreement with Juarez, Mexico, officials to facilitate Mexican prosecution of professional smugglers with witnesses supplied by the Border Patrol. As of May 1975, El Paso officials told us that the agreement had little effect; three cases presented to Mexican officials according to the agreement were not prosecuted.

Del Rio sector officials said they received excellent cooperation from Mexican officials in one border city but little cooperation from officials in another city nearby.

INS policies encourage sectors to seek local Mexican prosecution of smugglers living in Mexico. The INS district director in Mexico City is also available to assist in obtaining prosecution through higher Mexican authority. However, this option is apparently rarely pursued by the field office. The district director in Mexico City said that he rarely received information about border enforcement problems with Mexican authorities. He also said liaison to obtain better enforcement cooperation from Mexican authorities had generally not been carried on since 1971 because of his understanding that this was an Embassy function.

Embassy political affairs officials in Mexico City said that they had not received any information from INS about specific cases where Mexican authorities would not cooperate. They believed that with such information they might be able to obtain better cooperation with certain Mexican officials.

CONCLUSIONS

Professional smugglers, attracted by lucrative profits and low risks, are causing serious problems for the United States. Their activities undermine INS' effectiveness in preventing the illegal entry of aliens.

Though professional smugglers are difficult to stop, INS' antismuggling efforts have had good results, including immobilizing several large smuggling rings. However, several problems exist which limit INS' effectiveness:

- --System designed to promptly identify multijurisdictional smugglers has been neglected.
- --Adequate systems are not available to evaluate progress or concentrate resources on major violators.
- --Border Patrol antismuggling agents are burdened with other duties which significantly reduce their available time for antismuggling activities.
- --District office efforts are inconsistent due to changing central office priorities.
- --Insufficient emphasis is placed on developing a reliable informant system.
- --Surveillance vehicles are too conspicuous to be effective.

Cooperation from Mexican authorities in immobilizing smugglers living in Mexico has been obtained in certain areas. Local cooperation could be improved if INS would refer specific cases to Embassy representatives in Mexico City.

RECOMMENDATIONS

We recommend that the Attorney General direct INS to:

- --Use established procedures to identify multijurisdictional smugglers quickly.
- --Classify known smugglers by the size of their operations and put into place a system for evaluating the progress being made in immobilizing smuggling rings.

--Determine if additional manpower should be assigned to antismuggling units.

--Study the informant program to assess and improve its effectiveness in identifying and apprehending smugglers.

--Begin efforts to obtain suitable surveillance vehicles (possibly from vehicles seized by other agencies).

--Seek assistance from U.S. Embassy officials in obtaining cooperation from Mexican officials.

AGENCY COMMENTS AND OUR EVALUATION

The Department of Justice said it was in general agreement with most of the recommendations contained in this chapter as well as chapters 3 and 4, particularly those advocating new or revised legislation. (See app. III.)

The Department further stated that to carry out GAO's recommendations would either require sufficient additional resources to accomplish INS' mission or a de-emphasis of its highest priority actions. The Department concluded that, in view of INS' limited resources, continuation of its priority plan appears to be the most defensible solution.

We believe, however, the recommendations discussed in this report warrant consideration by the Congress and the Department of Justice because of the seriousness and magnitude of professional smuggling of aliens, the use of illicit documents (see ch. 3), and schemes to obtain legal status (see ch. 4) and the expected rise in these activities. Our recommendations pertain to sound management practices that would enable INS to more effectively control these activities and minimize the resources it needs within its priority plan. We recognize the constraints imposed by resource limitations; however, we believe that more can be done with existing resources, and our recommendations are presented with this in mind.

MATTERS FOR CONSIDERATION BY THE CONGRESS

We recommend that the Congress amend laws regarding deportation of legal resident aliens for smuggling aliens to permit deportation of legal resident aliens based on criminal convictions for smuggling offenses. We also recommend that INS be given discretionary authority, similar to that given to DEA and Customs Service, to seize vehicles used in smugging aliens.

1100

REPORT TO THE CONGRESS

BY THE COMPTROLLER GENERAL OF THE UNITED STATES

Immigration--Need To Reassess U.S. Policy

Departments of Justice and State

U.S. immigration problems as discussed in this summary of six prior GAO reports are severe. This summary deals with matters ranging from an inability to control large scale illegal entry to an inequity in the existing immigration law which unfairly allows illegal entrants to later obtain immigration benefits while bona fide immigrants are denied early admission.

The seriousness of our immigration problems dictates a need for early correction. Hopefully this report will provide some impetus in that direction.

GGD-76-101

OCT. 19, 1976

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-125051

To the President of the Senate and the
Speaker of the House of Representatives

This report summarizes the problems the Government has in administering and enforcing immigration laws and highlights the need for reassessing U.S. immigration policy.

Since May 1973, we have issued several reports containing administrative and legislative recommendations to the Congress and to agency officials. (See app. IV.) These reports primarily emphasize the need for action to curb the adverse social and economic impact of illegal immigration and discuss problems that, in large part, still exist. For example:

- --Many more aliens than can be apprehended are illegally entering the country.
- --Many nonimmigrants, such as foreign students, are here illegally; that is, they are violating their conditions of entry, such as being employed and not departing when required.
- --Current immigration law is unfair--people in this country illegally can later derive immigration benefits while bona fide immigrants are denied early admission.
- --Laws designed to insure that legal aliens do not become public charges or adversely affect the domestic labor force have been ineffective.
- --Professional smugglers, illicit documents, and schemes to obtain legal resident status are undermining U.S. immigration efforts.

- --Aliens entering illegally with the assistance of smugglers have on occasion received inhumane treatment (leading to death in some cases) from their "benefactors."

The Congress and the administration have recognized the seriousness of this situation and have initiated actions to solve the problems.

- --Numerous bills, many encompassing our legislative recommendations, have been introduced in the Congress to deal with various aspects of the problems. As of August 25, 1976, none had been enacted. (See app. XI.)
- --In 1975 the President established the Domestic Council Committee on Illegal Aliens to identify solutions to U.S. immigration problems.
- --The Immigration and Naturalization Service and the Department of State have implemented some of our recommendations and have made some improvements in their programs. Also, the Service has begun a major effort to assess the number of aliens and their impact on our Nation.

These proposals and actions will only partially answer the problems. Finding adequate solutions to the U.S. immigration situation is difficult because of numerous and complex factors which have contributed to the immigration problems. The problems have grown rapidly because of:

- --The poor economy in certain countries, which is usually the driving force behind many foreigners striving, by whatever means possible, to enter the United States.
- --The need for additional personnel and resources to enforce immigration laws.
- --The need for legislation to curb immigration problems. No major changes have been made to the immigration laws since 1965, even though most people agreed then that additional legislation would soon be needed.

- --The need for improved administration and enforcement of U.S. immigration laws, including better interagency and State and local government cooperation.

- --Political and other constraints which have been based on humanitarian considerations for the alien and the role of the immigrant in our Nation's development.

- --The absence of adequate information for the Congress to use in assessing the extent of the problems and their social and economic implications.

In commenting on our report, the Department of State cited various social, political, economic, demographic, and international situations which complement the above factors and should be considered when examining U.S. immigration policy. (See app. XIV.)

The seriousness of U.S. immigration problems dictates a need for early corrective measures. The complex factors contributing to the problems, the numerous adverse social and economic effects of these problems, and the wide range of proposed solutions illustrate the need for a comprehensive and coordinated effort to evaluate the current laws and their administration and enforcement. The work of the Domestic Council Committee and the Service could be important in obtaining and evaluating information needed to assess the immigration problems.

U.S. immigration problems may be alleviated somewhat by changes to the current laws; however, to adequately cope with all the problems and to effectively regulate future immigration, we recommend that the Congress work with the administration to totally reassess U.S. immigration policy.

The Departments of Justice and State and the President's Domestic Council Committee on Illegal Aliens agree that our immigration policy needs to be reassessed. Their comments on this report included the following:

- --The report brings fairly well into focus the seriousness of the illegal alien problem and lack of resources to enforce immigration laws. (See app. XIII.)

- --The report perceptively analyzes the existing U.S. immigration situation and the underlying causes of it. (See app. XIV.)

- --It is consistent with the current work and tentative findings of the Domestic Council Committee on Illegal Aliens. While legislative improvements, greater interagency cooperation, and increasing resources can help improve our Nation's ability to cope with illegal immigration, a more comprehensive solution to this problem requires that our U.S. immigration policy be totally reassessed. (See app. XV.)

The Congress and the administration need to act together to give U.S. immigration policy the attention it demands. To assist committees and Members of Congress and the administration in considering immigration policy and legislation, appendixes I through XII provide information on immigration legislation, the alien population, and our observations on the various factors contributing to the problems based on a series of our reports.

Our review was made pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

Copies of the report are being sent to the Director, Office of Management and Budget, the Attorney General, and the Secretaries of State and Labor.

Elmer B. Staats
Comptroller General
of the United States

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REPORT TO THE CONGRESS

BY THE COMPTROLLER GENERAL OF THE UNITED STATES

If Defense And Civil Agencies Work More Closely Together, More Efficient Search/Rescue And Coastal Law Enforcement Could Follow

This report discusses the potential for increased coordination among Department of Defense components, the Coast Guard, and civil law enforcement agencies in using their aircraft and ships. It discusses economies that could be realized from greater sharing of assets and provides alternatives for more effective use of people and equipment.

LCD-76-456

MAY 26, 1977

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-114851

To the President of the Senate and the
Speaker of the House of Representatives

This report discusses the need for greater cooperation among military and Federal civil agencies conducting operations, particularly search and rescue and law enforcement missions along the coasts or in U.S. coastal waters.

We made our review pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

We are sending copies of this report to the Director, Office of Management and Budget; the Secretaries of Transportation, Defense, and the Treasury; the Attorney General; the Secretaries of the Army, Air Force, and Navy; and the Commandant of the Coast Guard.

ACTING Comptroller General
of the United States

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

IF DEFENSE AND CIVIL AGENCIES WORK MORE CLOSELY TOGETHER, MORE EFFICIENT SEARCH/RESCUE AND COASTAL LAW ENFORCEMENT COULD FOLLOW

DIGEST

Increased coordination is needed among several Federal services in providing assistance to people in distress. This coordination is provided for under the National Search and Rescue Plan. If this plan were sufficiently adhered to, which it is not, substantial savings to American taxpayers could be realized.

This could be done by greater sharing of aircraft and crews and support facilities and equipment, chiefly by the Air Force, the Navy, and the Coast Guard in meeting their cooperative responsibilities under the National Search and Rescue Plan.

In fact, excellent opportunities exist for joint determination of aircraft and personnel requirements and sharing of resources among agencies which, if realized, would result in less total resource requirements and more efficient use of Federal aircraft, ships, and personnel.

SEARCH AND RESCUE POLICY

The national policy on search and rescue was established in 1954 to provide

--a basic network of facilities,

--an overall plan for effective use of all available people and equipment and provisions for controlling and coordinating search and rescue missions, and

--for use of State and local facilities to the maximum extent possible.

The National Search and Rescue Plan, revised in 1969, implements this policy.

NETWORK FOR SEARCH AND RESCUE NOT FUNCTIONING PROPERLY

Despite National Search and Rescue Plan guidelines, the Air Force, Navy, and Coast Guard are essentially computing their own search and rescue requirements independently to satisfy their individual needs, without adequately considering available assets of the others in the plan. Also, they were stationing aircraft in some of the same areas without adequately coordinating their use. Result: overabundance of aircraft, people, and equipment.

The objective of the National Search and Rescue Plan is to integrate all facilities into a cooperative network to render aid to distressed civilian and military persons and property, to coordinate the use of facilities, and to promote efficiencies and economies. (See p. 15.)

But Coast Guard and Department of Defense units are computing requirements and stationing search and rescue aircraft to provide for their peak needs without adequately considering assistance available from other services. This practice has resulted in more aircraft, crews, and supporting services than are needed to provide adequate coverage to both the military and civilian areas.

For example, enough H-3 helicopters capable of performing search and rescue missions are available at the Naval Air Station, Jacksonville, Florida, at all times, to reduce Navy dedicated search and rescue helicopter needs. Some of Jacksonville's helicopters and crews could be reassigned to other missions.

An overabundance of search and rescue aircraft in the Pensacola, Florida, and San Francisco, California, areas also exists. (See pp. 20 and 21.)

GAO recommends that the Secretaries of Defense and Transportation direct the military services and the Coast Guard to determine jointly total search and rescue aircraft requirements for both peacetime and wartime. (See p. 23.)

While the Departments of Defense and Transportation agreed that there are opportunities for increased cooperation, they disagreed with the above recommendation. (See p. 24.)

Defense said its search and rescue assets are maintained and justified to support military forces, and cooperation in civil search and rescue missions will be done, but on a basis of noninterference with military operations. The Coast Guard disagreed on the basis that they have statutory responsibility for civil maritime search and rescue.

GAO believes that since Defense assets are Federal assets they should be used for civil as well as military search and rescue purposes if physically available and not otherwise actively engaged in critical military operations.

Also, the Coast Guard's statutory responsibility for civil maritime search and rescue does not preclude use of other available Federal assets.

BETTER USE OF SEARCH AND RESCUE ASSETS

The coordination of resources objective of the National Search and Rescue Plan is not being met in the maritime regions in fiscal year 1975. The Coast Guard did not adequately use other available resources, choosing instead to fly all but 2 percent of the maritime search and rescue missions that fiscal year. Defense units could have performed many of these missions. (See p. 28.)

GAO could not determine the precise amount of search and rescue assistance Defense units could annually provide the Coast Guard but believes the amount is substantial.

The Air Force, Navy, and Coast Guard flew over 27,800 hours on search and rescue training flights in fiscal year 1975, at an estimated cost of over $12.4 million. Many of these hours could have been used for such missions. Had this been done, two purposes (search and rescue and training) would have been met and a number of flight-hours could have been eliminated. (See p. 29.)

Substantial economies of operation would result from greater shared use of search and rescue assets by Defense units and the Coast Guard.

GAO recommends that the Secretaries of Defense and Transportation direct Defense branches and the Coast Guard, respectively, to begin joint effective use of search and rescue aircraft, including stationing, personnel staffing, training, and future deployments. Such use should consider the alternatives GAO suggests. (See p. 44.)

But the Coast Guard, the Navy, and the Air Force said that Defense facilities are available to meet civil search and rescue needs on a basis that they do not interfere with military missions. Their comments are discussed in detail on pages 35 and 36, and 40 and 41.

GAO does not believe the intent of the National Search and Rescue Policy or Plan was to place higher priorities on military missions than on civil search and rescue missions. GAO believes more effective use of Federal search and rescue aircraft is needed.

POSSIBLE REDUCTION OF COAST GUARD AIRCRAFT PURCHASES

The Coast Guard, the Navy, and the Air Force should improve their coordination of operations and joint planning to clarify total requirements for aircraft. This would result in more efficient and effective operations and could reduce the total quantity of aircraft needed.

Currently the Coast Guard is planning to purchase 56 aircraft at a cost of $287 million. In making its requirements computations, the Coast Guard did not consider the aircraft available from the Air Force and Navy which could satisfy, in part, the Coast Guard's requirements. (See pp. 37 to 39.)

The Coast Guard replied that GAO assumes Air Force and Navy aircraft are available for Coast Guard missions on a continuing basis, and because such is not the case, sufficient aircraft must be procured to "satisfactorily meet statutory responsibilities."

GAO does not subscribe to the logic that because Air Force and Navy aircraft are not available for civil search and rescue missions on a continuing basis the Coast Guard must procure sufficient aircraft and equipment to satisfy all civil maritime search and rescue requirements.

GAO recommends that in light of the assistance available from Defense, the Secretary of Transportation require the Coast Guard to reevaluate the number of aircraft it plans to purchase.

LAW ENFORCEMENT ALONG U.S. COASTS

Several branches of the Federal Government have law enforcement functions along the coasts and in U.S. coastal waters.

The opinion is widely held that Defense cannot assist in civil law enforcement because of the Posse Comitatus Act. (See p. 47.) GAO believes Defense can provide more assistance to civil law enforcement agencies without violating the Posse Comitatus Act.

Defense believes its current relationship with civil law enforcement agencies to be realistic and that clarifying legislation is not needed. However, both the Departments of the Treasury and Justice said that clarification of the

Posse Comitatus Act is needed. Therefore, GAO recommends that the Congress enact legislation authorizing Defense to loan personnel and equipment to civil law enforcement agencies to transport agency representatives on law enforcement missions.

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ABBREVIATIONS

ARRS	Aerospace Rescue Recovery Service
CAP	Civil Air Patrol
CONUS	continental United States
DEA	Drug Enforcement Administration
DOD	Department of Defense
GAO	General Accounting Office
INS	Immigration and Naturalization Service
MRS	medium-range search
NAS	Naval Air Station
NOAA	National Oceanic and Atmospheric Administration
RCC	Rescue Coordination Center
SAR	search and rescue

CHAPTER 1

INTRODUCTION

The U.S. Coast Guard is the principal U.S. Government maritime law enforcement agency, providing assistance to those in distress in U.S. maritime regions. Other Coast Guard missions include marine environmental protection and marine science activities, and upon declaration of war or when the President otherwise directs, it becomes part of the U.S. Navy. To accomplish its missions the Coast Guard has a fleet of 240 ships and 141 aircraft and is authorized over 39,000 personnel in the continental United States (CONUS).

The Department of Defense (DOD) service branches have missions throughout U.S. coastal waters. Some, such as search and rescue (SAR) of persons and property, closely parallel Coast Guard missions and require similar equipment.

Many civil agencies also have activities along the U.S. coasts or in coastal waters. These include law enforcement agencies such as the Drug Enforcement Administration (DEA) and the Immigration and Naturalization Service (INS), both organizations of the Department of Justice; the U.S. Customs Service, an element of the Department of the Treasury; and parts of the Department of Commerce, which conduct operations such as marine research, weather observation and prediction, and ocean monitoring. All these activities require equipment such as aircraft or ships, although needs and assets vary among agencies.

We examined the operations of several Federal agencies with similar functions in U.S. maritime areas to determine (1) common functions, (2) intercoordination, and (3) their potential for increased coordination and more effective use of resources.

We concentrated on SAR, enforcement of laws and treaties, and marine environmental protection.

This report discusses the need for increased coordination among DOD branches, the Coast Guard, and civil law enforcement agencies; savings that could be realized from greater sharing of assets; and alternatives for more effective use of personnel and equipment.

CHAPTER 7

OTHER OPPORTUNITIES FOR ACHIEVING GREATER EFFICIENCY AND ECONOMIES THROUGH INCREASED COORDINATION

The Department of Defense has numerous aircraft and ships crossing U.S. coastal waters, the Coast Guard has aircraft and ships operating routinely in these waters, and several other Federal agencies conduct operations in these areas. If civil agencies could better coordinate their operations with each other, and if DOD could provide greater assistance to civil agencies, especially in the areas of law enforcement and environmental protection, more efficient operations and use of assets would result.

CONTROL OF ILLEGAL ENTRY OF PERSONS AND GOODS

The Immigration and Naturalization Service, the Drug Enforcement Administration, and the U.S. Customs Service have law enforcement responsibilities involving detection and prevention of illegal entry of goods and persons into the United States. INS is responsible for the entry of persons; DEA is responsible for narcotics and drugs; the Customs Service is responsible for interdicting contraband coming into the United States, including narcotics and drugs.

To some degree these agencies coordinate their efforts and receive support from the Coast Guard and State and local agencies. The Coast Guard, for example, has provided personnel and equipment for several special law enforcement operations conducted by the Customs Service in the Florida area. Customs and the Coast Guard have several other agreements, both formal and informal, which include the stationing of Customs' personnel aboard Coast Guard ships for patrol missions and berthing of Customs' boats at Coast Guard facilities.

We believe that more of this type of interagency coordination could increase the agencies' effectiveness and at the same time require less resources. More routine stationing of INS and Customs' officers aboard Coast Guard patrol vessels might increase the agencies' operational capabilities without the need for more patrol vessels.

MILITARY ASSISTANCE TO CIVIL LAW ENFORCEMENT AGENCIES

The Posse Comitatus Act is represented to be a limiting factor in the use of military personnel and equipment by Federal law enforcement agencies. Considerable uncertainty exists concerning the amount of assistance the military can provide civil law enforcement agencies without violating the act.

The Posse Comitatus Act, 18 United States Code 1385, states:

> "Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined not more than $10,000 or imprisoned not more than two years, or both."

The act has been interpreted as precluding the military services from actively enforcing civil laws. 1/ Investigation, pursuit, search, and arrest by military forces are examples of active, or direct, enforcement of civil laws.

A 1976 opinion from the Department of Justice stated that recent court cases, when read together, made clear that the Posse Comitatus Act is only violated if military personnel take a direct active role in executing the law through such activities as investigation, search, arrest, or pursuit. The test is whether military personnel subject citizens to the exercise of military power, which is regulatory, proscriptive, or compulsory in nature. The

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1/ Although not expressly applicable to the Navy and Marine Corps, the Posse Comitatus Act is regarded as a statement of Federal policy which is closely followed by the Navy.

Members of the naval services shall not, in their official capacity, enforce or execute local, State, or Federal civil laws except when expressly authorized by the Constitution or Act of Congress, or when specific approval of the Secretary of the Navy is granted.

opinion further stated that indirect roles by military personnel, such as the loan and maintenance of equipment, aerial photographic flights, training, and other expert advice are too passive to be viewed as violations of the act and are therefore lawful and proper. 1/

Since there is not a consistent line of court cases in opposition, the opinion of the Justice Department is considered persuasive commentary. The Department has the responsibility to advise the Executive Branch on legal matters.

From the above statements, it is clear that direct enforcement of civil laws by the military would violate the act. It is also clear that indirect assistance to civil authorities is allowed. The specific form of authorized indirect assistance is uncertain. For example, it has not been established under what circumstances military personnel can operate loaned military equipment for civilian law enforcement authorities. For instance, it is not clear whether an Air Force pilot transporting a Customs' agent in an Air Force plane on a contraband patrol or interdiction mission would be in violation of the act.

MARINE ENVIRONMENTAL PROTECTION SURVEILLANCE

It is against U.S. law to discharge oil and other pollutants into the inland waterways within 50 miles of U.S. coasts.

The Federal Water Pollution Control Act as amended by the Water Quality Improvement Act of 1970 (33 U.S.C. 1151 et seq. (1970)) gave the Coast Guard responsibility and enforcement authority for protecting the marine environment from discharges of oil and other hazardous substances. Recognizing this responsibility, the Coast Guard's Marine Environmental Protection Program was established in 1971.

The objectives of the program are to (1) minimize damage to the marine environment and its living resources caused by intentional or unintentional acts of man, (2) increase man's awareness of the environmental impact of his actions, and (3) improve the quality of the marine environment.

1/The Justice Department's position regarding the propriety of indirect assistance to civil law enforcement authorities by military personnel is supported by the opinion of Judge Andrew Bogue in United States V. Red Feather, 392F. Supp. 916 (D.S.D., 1975).

The four main elements of the program are (1) surveying to detect oil spills and other pollutants, (2) containing and cleaning up the pollutant, (3) gathering evidence for enforcement of laws concerning the discharge of oil and other harmful pollutants into inland and coastal waterways, and (4) deterring potential violators of pollution laws.

The Coast Guard uses both aircraft and ships in the Marine Environmental Protection Program. Aircraft are used primarily for aerial pollution surveillance patrols; they are also used for aerial transport of personnel and major items of equipment needed to respond to oil spill incidents. Ships are used for containing spills and gathering samples for evidence.

The Coast Guard recorded over 11,400 oil slick sightings in 1974. Because of shortages of ships and crews, or diversions of ships from oil spill missions to search and rescue missions, they only responded to about 7,000 spills.

In fiscal year 1975 the Coast Guard projected a total of 16,651 flight-hours for the Marine Environmental Protection Program. Only 6,966 hours were flown. Reasons for the shortfall were

--shortages of equipment,

--reduction of flights because of fuel consumption cutbacks, and

--diversion of environmental protection flights to SAR flights.

The Coast Guard has projected fiscal year 1977 environmental protection flight-hour requirements at 18,500 hours.

The oil spills, shortfall of hours flown in fiscal year 1975, and increased flight-hour projections for fiscal year 1977 indicate the Coast Guard's need for any assistance it can obtain from other Federal agencies in fulfilling program requirements.

Numerous Federal agencies, in addition to the military services, routinely operate craft on and over inland and coastal waterways and could perform a pollution surveillance function. The National Oceanic and Atmospheric Administration (NOAA) of the Department of Commerce is one such organization. NOAA's basic mission is to organize a unified approach to the problems of the ocean and atmosphere and to create a focal point within the civilian sector of the

Federal Government for this purpose. NOAA administers over 40 programs, including coastal mapping services, marine mining research, the National Environmental Satellite Service, and the State/Federal fisheries management.

In the past the military services have reported oil slicks sighted during their operations. However, Coast Guard officials informed us that these reports have often been transmitted late and have therefore been of little value.

CONCLUSIONS

We believe opportunities for increased cooperation among various civil agencies of the Federal Government exists. Also, the military services have assets that we believe could be made available to civil agencies on a loan basis. Such cooperation and loan of assets could increase the effectiveness of the law enforcement activities of these agencies without increasing the amount of resources the agencies require to accomplish their missions.

We believe surveillance and prompt reporting of visible pollutant spills by the military services and Federal and State agencies would provide more effective pollution surveillance. Such expanded coverage and reporting might also reduce the number of surveillance patrols the Coast Guard requires.

RECOMMENDATIONS

We recommend that the Commandant of the Coast Guard place greater emphasis on sharing assets with Federal law enforcement agencies to reduce duplication or overlap of patrols and assets and allow more efficient performance of law enforcement operations.

We also recommend that the Coast Guard sponsor an Executive order requiring DOD branches and other Federal and State agencies to promptly report sightings of pollutants.

AGENCY COMMENTS AND OUR EVALUATION

In addition to comments by the Secretaries of Defense and Transportation, the Secretary of the Treasury and the Attorney General commented on this chapter. (See apps. III and IV.)

All the agencies pointed out examples of interagency cooperation and sharing of assets that facilitate more efficient operations. DOD and the Coast Guard stated that they recognize the opportunities for increased interagency cooperation and will continue efforts in this area.

Regarding military assistance to civil law enforcement agencies, we believe there is potential for increasing the amount of assistance the military can provide Federal civil law enforcement agencies. This potential, if realized, can increase the agencies' capabilities without proportionate increases in equipment purchases. Much of the uncertainty surrounding increased use of military resources for civil law enforcement rests with interpretation of levels of assistance authorized under the Posse Comitatus Act. (See p. 47.)

We therefore proposed that DOD sponsor legislation to the Congress defining the level of assistance DOD could provide Federal civil law enforcement agencies without violating the act.

The Departments of Justice and the Treasury fully concurred in and supported our proposal. The Coast Guard was more cautious, stating that because of the unequivocal language of the statute and the lack of unanimity by the judiciary on our distinction between DOD's active and passive participation in civil law enforcement, it would act with caution in this area.

DOD declined to propose clarifying legislation. We suggested legislation authorizing DOD to loan personnel and equipment to civil law enforcement agencies for the purpose of transporting them on law enforcement missions. DOD believes their current relationship with civilian law enforcement agencies, which includes determining support for assistance requests on a case-by-case basis, is realistic.

Notwithstanding DOD's comments we believe clarifying legislation is needed. In our opinion, DOD's present relationship with civil agencies in this area is cumbersome and unclear.

We recommend that the Congress enact legislation clarifying what assistance DOD can provide Federal civil law enforcement agencies without violating the Posse Comitatus Act. Such legislation should, in our opinion, expressly authorize DOD to loan personnel and equipment to Federal civil law enforcement agencies for the purpose of transporting them on law enforcement missions. This recommendation is intended to clarify but not to change the basic policy of the Posse Comitatus Act.

In our draft report, we proposed that the Coast Guard initiate action to develop formal agreements, or propose legislation to the Congress, requiring DOD components and Federal and State agencies to promptly report sightings of pollutants. In response to this proposal, the Coast Guard suggested that an Executive order might be a more appropriate mechanism for achieving the desired results. We agree with the Coast Guard's suggestion and have changed our recommendation accordingly. The Departments of Justice, the Treasury, and Defense generally concurred with this recommendation.

RECOMMENDATION TO THE CONGRESS

We recommend that the Congress enact legislation expressly authorizing the Secretary of Defense to loan available personnel and equipment to Federal civil law enforcement agencies for the purpose of transporting them on law enforcement missions.

REPORT TO THE CONGRESS

BY THE COMPTROLLER GENERAL
OF THE UNITED STATES

Illegal Entry At United States-Mexico Border--Multiagency Enforcement Efforts Have Not Been Effective In Stemming The Flow Of Drugs And People

The flow of illegal aliens and illicit drugs across the United States-Mexico border continues. Federal agencies responsible for law enforcement along the border operate almost independently, [illegible] for each other's missions. These separate yet similar lines of effort are [illegible] coverage and [illegible]. This report discusses the need for effective [illegible]. This report contains recommendations to Federal agencies and to the Congress to strengthen law enforcement at the border.

GGD-78-17

DECEMBER 2, 1977

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-175425

To the President of the Senate and the
Speaker of the House of Representatives

Federal law enforcement along the United States-Mexico border has been the center of much interest and controversy. Although improvements have been made, there is still a great deal of overlapping and duplication of functions among agencies along the border.

This report discusses the problems Federal law enforcement agencies have in handling the influx of narcotics and illegal aliens and contains our recommendations for improvements.

Our review was made pursuant to the Budget and Accounting Act of 1921 (31 U.S.C. 53) and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

We are sending copies of this report today to the Director, Office of Management and Budget; Director, Office of Drug Abuse Policy; the Secretaries of the Treasury, State, and Transportation; and the Attorney General of the United States.

Elmer B. Staats

Comptroller General
of the United States

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

ILLEGAL ENTRY AT UNITED STATES-MEXICO BORDER--MULTIAGENCY ENFORCEMENT EFFORTS HAVE NOT BEEN EFFECTIVE IN STEMMING THE FLOW OF DRUGS AND PEOPLE

DIGEST

Mexico is the principal source or transit country for illicit drugs and illegal aliens entering the United States. Law enforcement activity along the United States-Mexico border is a large part of the Nation's domestic and international effort to contain these problems.

Controlling the movement of people, aircraft, boats, and vehicles along this 2,000-mile open-land border is complex and difficult. It requires what has not yet been achieved--a comprehensive, coordinated effort by all Federal law enforcement agencies.

If Federal law enforcement activities along the border were better planned, coordinated, integrated, and executed, more control could be maintained. Instead, separate Federal agencies carry out their specific missions with limited consideration for the activity of the others. This produces separate but similar lines of effort that dilute border coverage and control, with little consideration given to overall border security.

Federal Government expenditures to improve border control have nearly doubled since fiscal year 1971. About $142 million was spent in fiscal year 1976.

The principal agencies involved are the Customs Service. Immigration and Naturalization Service, and the Drug Enforcement Administration. Other agencies having an interest in controlling the Southwest border are the Federal Bureau of Investigation;

Tear Sheet. Upon removal, the report cover date should be noted hereon.

Bureau of Alcohol, Tobacco, and Firearms; Department of Defense; Federal Aviation Administration; Coast Guard; Department of Agriculture; and Public Health Service.

A COMPREHENSIVE STRATEGY IS NEEDED

Since the Federal Government has not developed an integrated strategy or an overall border control plan to determine what it intends to accomplish with its various agency law enforcement resources:

--Costly overlapping and poorly coordinated enforcement continues to exist.

--Border forces do not intercept significant quantities of heroin and cocaine. The Customs Service and the Immigration and Naturalization Service seize only about 2 percent of the heroin estimated to come from Mexico. The Drug Enforcement Administration--including seizures made in Mexico near the border--accounts for an additional 4 percent.

--Border drug apprehensions involve the small-time operator, courier, or user and seldom lead to the identification and conviction of important drug traffickers or to the immobilization of trafficking organizations.

--The Federal Government is apprehending increasing numbers of illegal aliens (over 600,000 in 1975), but believes that for each illegal alien caught, at least two others get through. The border is a revolving door.

--Too little is known about how most drugs enter the country to make decisions on how to respond. Available intelligence suggests that heroin, cocaine, and dangerous drugs are being smuggled through the ports-of-entry. However, inspector staffpower at major United States-Mexico ports has remained about the same or decreased, while patrol forces away from the ports have increased.

The agencies involved have stated that recent improvements have been made in some of these areas.

Illegal entry into the United States is more than just a serious enforcement problem. Illicit drugs and the influx of illegal aliens are considered to have enormous adverse social cost. Estimates of the annual cost to counter drug-related crimes, lost productivity, treatment, and prevention range from $10 billion to $17 billion. The toll of broken homes and ruined lives is incalculable. Estimates on illegal aliens in the United States range up to 12 million. Illegal aliens cause a wide variety of economic and human difficulties, including lost tax revenues, increased social welfare costs, and greater competition for available jobs. Recent appraisals by the Congress and administration of the nature and extent of the drug abuse and immigration problems show conditions are worsening.

ALIENS

It is generally acknowledged that reliable estimates of the illegal alien population in the United States do not exist. An Immigration and Naturalization Service contractor estimated that about 5.2 million of the 8 million illegal aliens he believes are in the United States are Mexican nationals. Most illegal aliens apprehended are Mexican--about 89 percent. The number of illegal Mexican aliens apprehended increased from about 29,700 in fiscal year 1960 to over 680,000 in fiscal year 1975. The illegal entry of Mexicans increased after 1965 when the U.S. Government did not renew a 22-year-old agreement with the Government of Mexico that had allowed Mexicans to seek farm jobs in this country legally (Bracero program).

DRUGS

U.S. authorities estimated that in 1971 drugs flowing from and through Mexico represented 20 percent of the heroin, 90 percent of the marihuana, and 80 percent of the illicit dangerous drugs (amphetamines and barbituates) consumed in the United States. In September 1976 officials estimated that during 1975

--89 percent (5.2 metric tons) of the heroin reaching the United States came from poppies grown in Mexico,

--75 percent (2,700 tons) of the marihuana coming into the United States originated in Mexico,

--one-third of Colombian cocaine (4 to 5 tons) passed through Mexico, and

--one-third of the dangerous drugs (16 million dosage units) entered from Mexico. Much of this was believed to represent diversions from U.S. exportations.

Although the U.S. Mission and the Mexican Government have intensified the eradication effort in Mexico to reduce the amount of Mexican heroin available for smuggling into the United States, little attention has been given to the intelligence needs of border enforcement agencies. The U.S. Mission needs to design a program for developing information to assist in intercepting smugglers at the border (ch. 4). While certain steps can be taken, such as helping Mexico develop its capability to provide actionable intelligence, the Mexican Government is the key to any real success. Improved effectiveness in stopping smugglers at the border is dependent upon the priority and commitment of the Mexican Government to supporting law enforcement activities on both sides of the border. Indications are that the Mexican Administration is giving an increased commitment to the area.

RECOMMENDATIONS TO AGENCIES

GAO recommends that:

1. The Director of the Office of Management and Budget prepare an annual analysis on law enforcement along the United States-Mexico border. Such an analysis would bring together the separate budget requests of the various border enforcement agencies to facilitate integration of agencies' plans, programs, resources, allocations, and accomplishments. The analyses should be included with the agencies' appropriation requests.

2. The Director of the Office of Management and Budget and the Director, Office of Drug Abuse Policy, together with the Attorney General, Secretary of the Treasury, and the other Department heads having responsibility for border law enforcement should develop an integrated strategy and comprehensive operational plan for border control. This plan should consider the various alternatives for managing border operations ranging from the present management structure to single-agency management.

3. The Office of Management and Budget should coordinate closely with responsible congressional committees legislation needed to accomplish the proposed plan.

4. The Secretary of State should require the U.S. Mission in Mexico to expand the Narcotics Control Action Plan to include program goals and specific objectives for supporting border interdiction efforts.

RECOMMENDATIONS TO THE CONGRESS

Because of the problems discussed in the report, the appropriate congressional committees or subcommittees should hold oversight hearings to evaluate past performance and provide guidance for future activities. To diminish the incentive to smuggle drugs across the border, the Congress can help by legislating the following:

--Expand the jurisdiction of Federal magistrates to encompass most misdemeanors, e.g., minor drug offenses, especially marihuana.

--Appropriate funds for additional U.S. magistrates to be appointed in the Southwest border area.

--Establish criminal penalties for pilots who fly without a valid certificate.

- - - -

The Office of Management and Budget and the Departments of Justice, the Treasury, and State generally agreed with GAO's findings and recommendations. The various departments support the conclusion that the absence of a Federal Government integrated strategy and an overall border control plan has resulted in overlapping, duplication, and poorly coordinated enforcement activities. Detailed comments are discussed on pages 68 to 73.

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ABBREVIATIONS

ADIT	Alien Documentation, Identification and Telecommunication
ADP	Automatic Data Processing
ASB	Air Support Branch
ATF	Bureau of Alcohol, Tobacco, and Firearms
BNDD	Bureau of Narcotics and Dangerous Drugs
CCINC	Cabinet Committee on International Narcotics Control
DAWN	Drug Abuse Warning Network
DEA	Drug Enforcement Administration
EPIC	El Paso Intelligence Center
FAA	Federal Aviation Administration
FAR	Federal Aviation Regulation
FBI	Federal Bureau of Investigation
GAO	General Accounting Office
IDIG-M	Interdepartmental Intelligence Group-Mexico
INS	Immigration and Naturalization Service
MFJP	Mexican Federal Judicial Police
NADDIS	Narcotics and Dangerous Drugs Information System
NCAP	Narcotics Control Action Plan
NCIC	National Crime Information Center

NLETS	National Law Enforcement Telecommunication System
NORAD	North American Air Defense Command
OMB	Office of Management and Budget
ODAP	Office of Drug Abuse Policy
STRIDE	System To Retrieve Information from Drug Evidence
TECS	Treasury Enforcement Communication System

CHAPTER I

INTRODUCTION

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One of the major themes of the Federal strategy is that there should be more selectivity and targeting of Federal efforts. Federal policy gives priority to reducing both the supply of and demand for drugs which inherently pose a greater risk to the individual and to society. Additionally, priority law enforcement is to be given to high-level trafficking networks rather than "street-level" activities.

U.S. policy to prevent illegal immigration emphasizes border enforcement rather than apprehension of illegal aliens after settlement. Massive deportation of illegal aliens already in the United States is considered both inhumane and impractical.

MEXICO--MAJOR SOURCE OF SUPPLY

Mexico is the major source or transit country for illicit drugs and illegal aliens entering the United States. U.S. authorities estimated that in 1971 drugs flowing from and through Mexico represented 20 percent of the heroin, 90 percent of the marihuana, and 80 percent of the illicit dangerous drugs (amphetamines and barbituates) consumed in the United States. In September 1976 officials estimated that during 1975

--89 percent (5.2 metric tons) of the heroin reaching the United States came from poppies grown in Mexico,

--75 percent (3,700 tons) of the marihuana coming into the United States originated in Mexico,

--one-third of Colombian cocaine (4 to 5 tons) passed through Mexico, and

--one-third of the dangerous drugs (16 million dosage units) entered from Mexico. Much of this was believed to represent diversions from U.S. exportations.

Our report, "Opium Eradication Efforts in Mexico: Cautious Optimism Advised," cited the inadequate bases supporting the estimates that were made of the quantity of Mexican heroin reaching the United States and the continuing need to develop meaningful data.

It is generally acknowledged that reliable estimates of the illegal alien population in the United States do not exist. An Immigration and Naturalization Service (INS) contractor, however, estimated that about 5.2 million of the 8 million illegal aliens he estimated are in the United

States are Mexican nationals. Most illegal aliens apprehended are Mexican--about 89 percent. The number of illegal Mexican aliens apprehended increased from about 29,700 in fiscal year 1960 to over 680,000 in fiscal year 1975. The illegal entry of Mexicans increased after 1965 when the U.S. Government did not renew a 22-year-old agreement with the Government of Mexico that had allowed Mexicans to seek farm jobs in this county legally (Bracaro program).

UNITED STATES-MEXICO BORDER

Efforts within Mexico provide the first opportunity to interdict illicit drug trafficking by working with the Government of Mexico to minimize exports to the United States. The second opportunity to interdict drug traffic and the first to apprehend aliens is at the U.S. border. Other potential border-related law enforcement problems are the smuggling of firearms, stolen property, and stolen vehicles into Mexico. In some communities along the United States-Mexico border, crimes committed by and against border crossers is causing increasing concern.

Our previously mentioned report on opium eradication efforts in Mexico points out that progress has been made by the Government of Mexico in attacking the source of heroin--the opium poppy. This progress has resulted, in part, from substantial U.S. funding; however, we cautioned that future success would require continued upgrading of the narcotics control capabilities of the Mexican Federal Judicial Police (MFJP)--Mexico's narcotics agents--and the continuing commitment by the Government of Mexico toward this end.

Control of the border is basically a problem of controlling the movement of people, vehicles, aircraft, boats, and goods. While there are other agencies which have an interest in controlling the Southwest border (e.g., Federal Bureau of Investigation (FBI); Bureau of Alcohol, Tobacco, and Firearms (ATF); Department of Defense; Federal Aviation Administration (FAA); Coast Guard; Department of Agriculture; and Public Health Service), the principal agencies involved in law enforcement are the Customs Service (Customs), Immigration and Naturalization Service, and the Drug Enforcement Administration (DEA).

The INS includes the U.S. Border Patrol, port-of-entry inspectors, and investigators, whose primary responsibility is to prevent the illegal entry of persons into the United States or to apprehend and return illegal entrants. Customs, from a law enforcement standpoint, has the primary responsibility of preventing contraband from entering the United States and of detecting and apprehending smugglers. Customs also includes patrol officers, port-of-entry inspectors, and investigators. DEA is the single Federal agency charged with the responsibility for investigations pertaining to narcotics and dangerous drug violations.

OBSERVATIONS AND SUGGESTIONS FOR IMPROVING BORDER LAW ENFORCEMENT

Since the early 1970s administration studies, in addition to our reports, have made suggestions for improving Federal efforts to reduce drug abuse and illegal immigration. Recently, separate Domestic Council task forces have presented reports on these issues to the President. With the emergence of Mexico as the major source of illicit drugs and illegal aliens, the Southwest border has received Executive and congressional attention. Appendix I presents a summary of the studies and reports which identified problems between Federal border enforcement agencies. Included were recommendations to improve cooperation/coordination and to reduce costly overlapping. While some of these recommendations have been implemented, the essential characteristics of the problems remain.

SCOPE OF REVIEW

Our review was primarily directed toward an analysis of the activities and resources of Federal agencies having direct, indirect, and supporting responsibilities for law enforcement along the United States-Mexico border.

We reviewed policies, procedures, practices, correspondence, and documentation relating to each agency's approach, as well as studies which have been made on the problems of border control. Data was compiled regarding illegal aliens in the United States; Mexican narcotics production and transshipping estimates; illegal alien apprehensions; the seizure of drugs, equipment, and material used in smuggling; and arrest of drug smugglers. Additionally, we examined and analyzed agencies' files relating to selected drug interdiction cases.

Locations visited

Our review was conducted at

--Department of State, DEA, INS. U.S. Attorney, Customs, Coast Guard, and FAA Headquarters offices in Washington, D.C.;

--the U.S. Embassy in Mexico City and DEA's Mazatlan District Office; and

--various regional and district offices of these Federal agencies in the Southwest area of the United States.

Case analyses

Our findings and conclusions are based, in part, on an analysis of drug interdiction cases. At the locations visited, we reviewed (1) all sea and air interdiction cases for calendar year 1975 and (2) port-of-entry and land patrol interdiction cases for the last quarter of calendar year 1975 involving heroin, cocaine, dangerous drugs, or one kilogram (1000 grams or 2.2 pounds) or more of marihuana, as follows:

	San Ysidro/ San Diego, California	Nogales/ Tucson, Arizona	El Paso, Texas	Laredo, Texas	Total
Port-of-entry	101	34	44	a/21	200
Land patrol					
Customs	11	41	8	21	81
INS	6	28	17	8	59
Customs					
Air patrol	27	29	b/3	c/9	68
Marine patrol	10	-	-	-	10
Total	155	132	72	59	418

a/Because of the small number of interdiction cases at the Laredo port-of-entry, we added four cases from the quarter ended September 31, 1975, and seven cases involving less than a kilogram each of marihuana. Deleting these 11 cases leaves 10 cases applicable to the 15 Laredo seizures shown in the table on page 34.

b/Period covered July 2, 1975, through May 31, 1976.

c/Customs Air Support Branch located in San Antonio, Texas.

CHAPTER 2

CONTROL PROBLEMS AND RESOURCES ASSOCIATED WITH ENFORCEMENT AT THE SOUTHWEST BORDER

CONTROL PROBLEMS

Controlling the border is essentially a task of controlling the movement of people, vehicles, aircraft, and goods. This is difficult at any border, but characteristics of the Southwest border complicate the job. The United States has resisted "sealing off" the 2,000-mile land border with Mexico and has maintained, with modifications, an essentially open border for several reasons:

--Large expenditures would be required to effectively control the border. The MITRE Corporation in 1973 estimated it would cost $300 million to implement a system 85-percent effective in intercepting illegal entrants crossing between ports-of-entry.

--United States/Mexico relations have been good and are based upon friendliness and cooperation.

--The United States desires to facilitate the flow of legitimate traffic.

Enforcement agencies have deployed their officers and equipment at and between various ports-of-entry in an attempt to more effectively secure the border. Difficulties and limiting factors are discussed below.

Port-of-entry

The magnitude of commerce and travel, and the necessity to facilitate their flow, places constraints on the countermeasures available and practical for interdiction at ports-of-entry. The increasing tremendous volume of legitimate traffic serves to limit enforcement efforts necessary to detect contraband. During the 6-year period from fiscal year 1971 through fiscal year 1976, about 804 million people, 247 million vehicles, and 441 thousand aircraft were inspected in the Southwest border area. At major land ports such as San Ysidro, California, during peak traffic, an inspector has an average of 30 seconds to determine if a vehicle, its passengers, and baggage should be allowed to enter, or be given a more thorough examination which could take an hour or more.

During Operation Intercept in 1969, all persons and vehicles crossing the border were stopped and subjected to thorough inspection. This action demonstrated that more than a cursory search by inspectors at the ports-of-entry brings forth a great deal of public outcry and displeasure. More drugs were seized, but the increased time required to pass through the ports-of-entry resulted in long waiting lines of pedestrians and vehicles on the Mexican side of the border. Faced with long lines, many tourists complained bitterly and many others did not cross into Mexico. Merchants on both sides of the border complained.

Non-port-of-entry

The border area between the ports-of-entry is relatively unpatrolled and the heavy traffic along the border helps conceal illegal entry.

--Ground mode. Only 2 percent of the entire Southwest border (40 miles) offers sufficient topographical barriers to make illegal land crossings unlikely. The patrol forces are able to cover about 10 percent, or one patrolman for every 10 miles of the border at any given time.

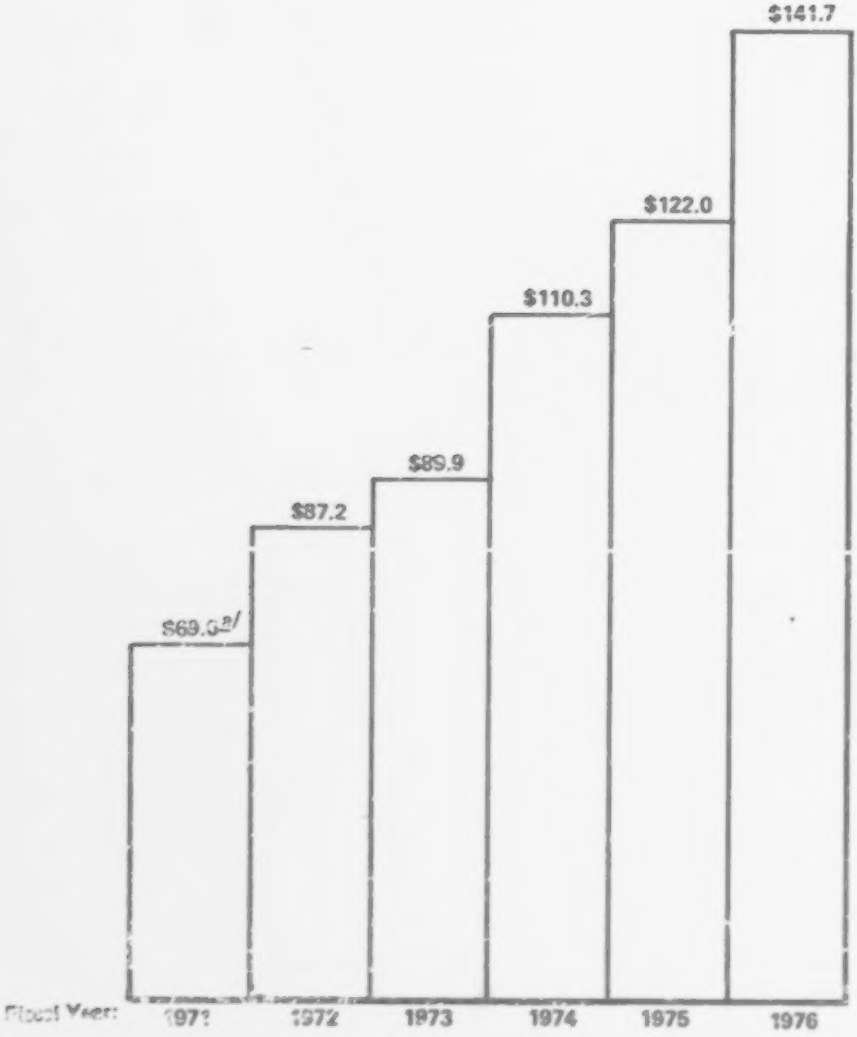
--Air mode. Aircraft can easily cross into the United States. DEA has estimated that there are up to 150 illegal flights per day across the Southern border (San Diego, California to Miami, Florida). The Southwest includes thousands of square miles of land containing abandoned or little-used airstrips, dry lake beds, and isolated roads where light aircraft can land. Southern California has about 53,000 active pilots and the three busiest general aviation airports. FAA and military radar coverage exists over portions of the United States/Mexico border, but sufficient limitations exist that aircraft, especially low-flying aircraft, run little risk of detection.

--Boat mode. The majority of the 500,000 small craft registered in the State of California, which includes about 3,500 yachts with long-range capability, are located in Southern California. There are three major harbors in Southern California and more than 15 small boat harbors which dot the coastline between San Diego and San Luis Obispo. In San Diego, where 300 to 400 pleasure vessels depart or arrive on a Saturday, Sunday, or holiday, there are over 120 miles of waterfront, and it is only 10 miles for the entrance of San Diego Bay to Mexican waters. Limited law enforcement resources result in virtually no monitoring of small boat activity on a day-to-day basis and regulations governing small boat reporting are very lenient. Only vessels landing in Mexico or making contact with another boat in Mexican waters (an extremely difficult thing to prove) are required to report their arrival to Customs within 24 hours.

RESOURCES 1/

Difficult control problems exist at the Southwest border, as evidenced by the fact that most illicit drugs and illegal aliens enter the United States over this border. The estimated Federal investment for law enforcement in that area has nearly doubled since fiscal year 1971.

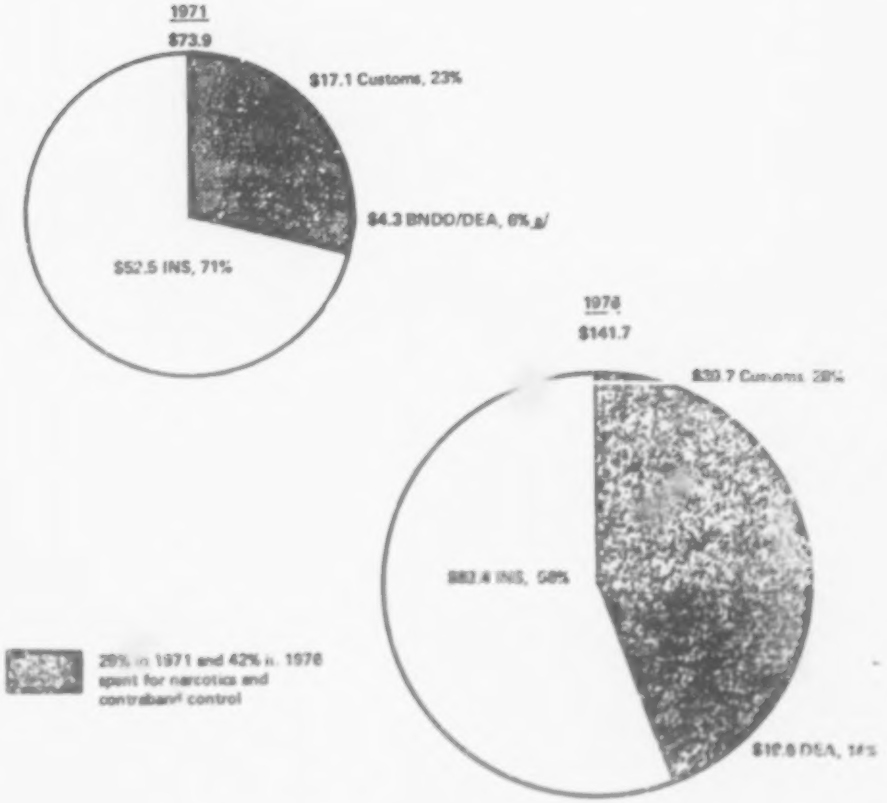
1/Because of the varying geographic boundaries of the various agencies, differing accounting systems, and incomplete documentation, the dollar figures and statistics presented in this chapter and the drug seizures in the following chapter do not represent a precise accounting for resources allocated to the Southwest border. The estimates were prepared by the agencies and, therefore, should represent a reasonable approximation of such resources.



Customs, INS, and Bureau of Narcotics
and Dangerous Drugs (BNDD)/DEA Expenditures
(millions)

[a] No cost for BNDD/DEA was included since such data was unavailable. BNDD/DEA estimated cost for 1972 was $4.3 million

The following chart illustrates the mix and general purpose for which these expenditures were made.



Customs, INS, and BNND/DEA Expenditures
Fiscal Years 1971 and 1976
(dollars in millions)

a/Since BNDD/DEA cost estimated for FY 71 unavailable, FY 72 cost for BNDD/DEA was used.

Not only did the expenditures change dramatically during this period, but also the purpose for which they were being expended. During 1971, INS spent 71 percent of the total funds in this area to control the entry of illegal aliens, while only 29 percent of the funds was being spent to control illegal drugs and other contraband. By 1976, INS' expenditures had dropped to 58 percent of the enforcement funds being spent by these agencies.

A breakdown of estimated INS, Customs, and DEA resources for various categories follows.

Southwest Border Resources

Fiscal Year 1976

	Staff power	Planes	Boats	Vehicles	Detector Dog Teams (note a)	Sensors
INS	b/2,988	24	0	1,469	0	968
Customs	2,055	27	11	726	48	375
DEA	664	11	3	493	-	-
Total	5,707	62	14	2,688	48	1,343

a/A detector dog team consists of a dog handler and a detector dog.

b/This represents the number of INS personnel stationed at the Southwest border during the first half of FY 1976.

From fiscal year 1971 through 1976, the Customs, INS, and DEA estimated number of personnel deployed along the Southwest border increased by 1,355 (31 percent) from 4,352 in 1971 to 5,707 in 1976. The increased personnel were distributed as follows: 668 or 52 percent perform a patrol operation, 267 or 21 percent perform the inspection operations, 188 or 15 percent perform an investigation function, while 232 or 17 percent perform a support function. The number and functional mode of operation of the personnel, from 1971 to 1976, are shown on the following page.

Operation	Staffpower	
	1971	1976
Inspection	1,028	1,295
Patrol	1,351	2,019
Investigation	603	871
Support	1,290	1,522
Total	a/4,352	5,707

a/Since 1971 estimates were not available for BNDD/DEA, 1972 estimates were used.

CHAPTER 3

LIMITED SUCCESS IN ACHIEVING FEDERAL OBJECTIVES

The Federal strategy for drugs gives priority to high-level trafficking networks and those drugs which inherently pose a greater risk to the individual and society. For aliens, the highest priority is prevention of illegal entries. The substantial Federal investment for enforcement at the Southwest border has had only limited success in achieving these objectives.

--Border forces interdict only a small quantity of the estimated heroin and cocaine entering the United States from Mexico. Most seizures are marihuana.

--Border drug apprehensions seldom involve high-level traffickers.

--Although apprehensions of illegal aliens have increased, more are successful in getting into the United States than are prevented from entering.

These areas are discussed in greater detail below.

LIMITED SEIZURES OF "HIGH RISK" DRUGS

In fiscal year 1976, Customs and INS seized about 2 percent of the heroin, less than 1 percent of the cocaine, and 10 percent of the marihuana estimated to come from or through Mexico. When DEA seizures (including seizures made in Mexico) are added total Southwest border area drug seizures by the three agencies for fiscal year 1976 represented about 6 percent of the heroin, 3 percent of the cocaine, and 13 percent of the marihuana estimated to come from Mexico. The following table shows fiscal year 1976 Southwest border area seizures by agency.

Drug Seizures (note a) at the

Southwest Border--FY 1978 (note b)

	Heroin	Cocaine	Marihuana
	(pounds)		
Customs	100	78	337,708
INS (note b)	10	5	406,129
Interdiction seizures	110	83	743,837
DEA	312	175	143,464
Total	422	258	887,301
Mexican narcotics production and transiting estimates 1978 (note c)	10,400	8,000	6,600,000

a/Drug seizures are presumed to be 100-percent pure, although the purity of border seizures are significantly less.

b/INS was able to supply seizure statistics for the first 6 months of fiscal year 1978. The quantities shown on the chart and the percentages shown on page 13 assume that seizures during the last 6 months were identical to those of the first 6 months.

c/Estimates of drugs flowing to United States from and through Mexico are shown as 100-percent purity.

As can be seen from the above table, the most significant accomplishment of seizures at the United States-Mexico border has been in reducing the quantity of marihuana entering the United States. This reduction, however, only accounted for about 13 percent of the estimated amount of marihuana coming from Mexico.

WHERE ARE DRUGS BEING INTERDICTED?

Our work along the United States-Mexico border, and that of the Domestic Council Drug Abuse Task Force on the Southern border, shows that most heroin, cocaine, and dangerous drugs are interdicted at ports-of-entry, while most marihuana by volume is intercepted away from the ports-of-entry.

Heroin--The overwhelming majority of heroin interdictions, in terms of frequency as well as volume, are at

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[illegible]

[illegible]

[illegible]

[illegible]

- [illegible]
- [illegible]

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National priorities and DEA efforts have shifted toward those drugs with the potential for causing the highest social cost, and away from low-level violators.

DEA has complained that a significant portion of its agents' time (30 percent) was being spent on border interdiction cases referred by Customs and INS that involved small-time marihuana smugglers. DEA officials and Assistant U.S. Attorneys advised us that border interdiction cases seldom lead to the identification of important drug traffickers or the immobilization of traffickers organizations. About 8 percent of the arrestees in the cases analyzed by us in Arizona and California led to the identification of major violators.

More illegal aliens enter successfully than are apprehended

Apprehension of illegal aliens has increased tremendously. The following table, based on INS's data, demonstrates this increase.

INS Apprehensions of Aliens Entering Without Inspection--Mexican Border

	CALIFORNIA-ARIZONA	NEW MEXICO-DEL RIO	LAREDO-GULF	TOTAL
1964	4,791	8,415	9,927	23,133
1965	11,026	11,023	8,714	30,763
1966	26,877	19,156	12,204	58,237
1967	38,539	24,916	14,577	78,032
1968	63,554	35,782	18,221	117,557
1969	78,399	53,816	30,884	163,099
1970	112,123	81,093	47,640	240,856
1971	132,786	108,270	72,736	313,792
1972	170,277	132,910	90,028	393,215
1973	285,389	149,194	111,078	545,661
1974	382,126	181,986	123,454	687,566
1975	398,688	160,938	102,371	661,997

Although these apprehension figures seem impressive, officials estimate that for each person apprehended while illegally entering the country, at least two others manage to get through. Border officials have said that the number of persons who illegally cross the border without apprehension may be substantially higher.

The following case helps to illustrate the magnitude of the problem. In April 1977, at one border crossing point, 2,897 illegal aliens were apprehended in a 36-hour period. An INS assistant regional commissioner estimated that an equal number of illegal aliens successfully entered the United States at this crossing point during the same period.

Many aliens apprehended are repeaters; some have been apprehended as many as 10 times. Our previous reports, the Domestic Council's Committee on Illegal Aliens preliminary report dated December 1976, and other studies have attested to the "revolving door" nature of the border. To illustrate, the Domestic Council report states:

> "Presently the border is a revolving door* * * We repatriate undocumented workers on a massive scale* * *. The illegals cooperate by agreeing to voluntary departure and significant numbers promptly re-enter. It is not unusual for an illegal to undergo multiple apprehensions and re-entries for there are no serious deterrents."

When one considers the many points along the United States-Mexico border that can be used by aliens to enter the United States, it becomes apparent that the attempt to prevent illegal entries at the border, by itself, will not solve the illegal alien problem.

CHAPTER 4

BORDER NEEDS AN INTEGRATED STRATEGY AND OVERALL CONTROL PLAN

Federal border law enforcement agencies face a complex and most difficult task that requires a comprehensive, coordinated effort by all segments of the border law enforcement community. Each agency should be expected to use its limited resources to achieve optimum results. Efforts to date, however, have not reached this goal because:

--The Executive Branch of the Federal Government has not developed an integrated strategy or a comprehensive border control plan to consider all aspects of the problem and establish clear, measurable objectives indicating what it intends to accomplish with the various law enforcement resources. A plan of this type is critical because of the many agencies with overlapping responsibilities.

--Costly overlapping and poorly coordinated enforcement activities and support systems exist.

--Little is known about how most drugs enter the country. High priority is being given to improve the situation. Available intelligence and seizure statistics indicate that most of the heroin, cocaine, and dangerous drugs are smuggled through the ports-of-entry. However, inspector staffpower at major United States-Mexico ports has remained about the same, or decreased, while patrol forces away from the ports have increased.

This chapter discusses the opportunity and need to strengthen law enforcement at the border under the major areas of intelligence support and law enforcement operations.

INTELLIGENCE

Intelligence for border law enforcement-- too little known

Resource deployment and border law enforcement effectiveness (significant arrests and seizures) depend upon the quality and quantity of information (intelligence) available to enforcement decisionmakers. The hordes of legitimate traffic in the vicinity of the border and passing through ports-of-entry make it extremely difficult to identify smugglers. Quality intelligence concerning the activities of smugglers, in combination with mobile air, water, or ground interception systems, is considered to be the best tool to improve interdiction results, short of total surveillance and interception coverage.

Information on how drugs enter the country is not adequate for making decisions on how to respond. The Domestic Council's Drug Abuse Task Force, in its draft report on the Southern border, supported this position. The report pointed out that "the single greatest area of deficiency, or in a more constructive sense, the area which has the greatest opportunity for improvement, is the drug intelligence function."

DEA's efforts to improve intelligence

Under Reorganization Plan No. 2, DEA was tasked with providing nationwide drug intelligence. DEA is currently working on this task and some improvements have been made: but problems still exist. To illustrate, DEA has developed a preliminary Mexican Heroin Trafficking Model which describes the methods and routes used in transporting Mexican heroin from the poppy-growing areas to U.S. cities. Many of these suspected heroin trafficking routes are probably used for smuggling cocaine and marihuana manufactured in and transited through Mexico. Although DEA suspects the routes and methods, little factual data exists to reliably establish the amount of illicit narcotics smuggled across the Southwest border. DEA supplies interdicting agencies with very little actionable intelligence necessary for successful operations along the borders. When it has provided such information, the successes have been significant.

In our report entitled "Federal Drug Enforcement: Strong Guidance Needed," dated December 18, 1975, we recommended that DEA place increased emphasis on the gathering of intelligence information to assist border law enforcement in catching smugglers at U.S. ports and borders. The Chairman of the working group of the Domestic Council's Drug Abuse Task Force for the Southern border said that DEA needs to reorient its agents to the intelligence function, especially outside of the country.

Border Intelligence Center-- a step forward, but problems still remain

In September 1974 the El Paso Intelligence Center (EPIC) was established by DEA at El Paso, Texas, to provide an overall intelligence picture of drug trafficking and/or smuggling by land, sea, or air between Mexico and the United States. This mission was to be accomplished by accumulating raw intelligence, analyzing this data, and providing tactical intelligence to agencies with border enforcement responsibilities. Plans were for a joint effort between DEA, INS, and Customs.

In the early stages of EPIC's development, progress was slow due to lack of support and agency resistance. Initially, only INS and DEA placed personnel at EPIC, but more recently other Federal agencies have begun to support EPIC. Current participants are Customs, ATF, Coast Guard, and FAA, with increased DEA and INS commitment. Recent progress supports the desirability of a single border intelligence center, but there are problems.

Agencies' commitments and views

In the early stages, the 20 DEA employees at EPIC devoted their efforts to building an intelligence data base and answering queries received from law enforcement personnel seeking current intelligence data on narcotics suspects and vehicles under surveillance for illegal drug trafficking. The initial personnel included three analysts whose time was devoted to preparing a weekly brief. This brief contained current trends, patterns, and statistical data relating to narcotics smuggling. Little time was left for other analysis of drug trafficking.

DEA now has 35 positions and most of the new positions were placed in the Analysis Section. With the increase in personnel, the Analysis Section is currently developing information and issuing reports in such areas as the exchange of arms and/or vehicles for narcotics; organized crime influences and narcotics trafficking organizations; alien-smuggling organizations; use of fraudulent documents by traffickers; and organized smuggling via land and commercial aircraft, ocean-going vessels, and small vessels. The Analysis Section reviews the EPIC lookouts [1] to determine the degree of success being achieved.

Initially, INS staffing at EPIC consisted of a deputy director, secretary, and a special agent. Currently, INS has 14 people at EPIC. The air intelligence and inspection program, the fraudulent document center, and the anti-smuggling program of INS have been transferred from Yuma, Arizona, to EPIC. INS is now in a better position to assess the impact of EPIC on its performance. The Justice Department said that "INS is the largest user of EPIC and EPIC has proved to be a very effective law enforcement tool for INS purposes."

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[1] A lookout is an alert communicated to EPIC by an agent and usually consists of a name, an automobile registration or license plate number, or an aircraft number to help EPIC intercept violators and the vehicles they use.

FAA officials have found EPIC to be an effective tool for providing appropriate information concerning aviation. FAA has an arrangement with DEA to have all aviation intelligence handled through EPIC. FAA has one representative at EPIC.

ATF is very supportive of EPIC according to ATF officials. Participation in EPIC provides ATF with a larger data base of useful intelligence with a minimum investment. Since its involvement in EPIC, ATF has made more arrests and developed more cases. ATF currently has one representative at EPIC.

The Coast Guard informed us it relies heavily on intelligence provided by EPIC and Customs. The information is in the form of vessel lookout lists. The Coast Guard generates some intelligence on its own which it transmits to EPIC. The Coast Guard feels EPIC is very beneficial because its vessels can and do make real time requests concerning suspicious vessels. Usually, EPIC will respond to the Coast Guard vessel by the time boarding takes place. The Coast Guard has one representative at EPIC and plans to add four more.

Unlike the other participants in EPIC, Customs is critical of EPIC because it feels that to a great extent EPIC duplicates the Treasury Enforcement Communication Systems (TECS), and TECS fulfills Customs' needs. Customs presently has two representatives at EPIC. TECS and other agencies' intelligence support systems are discussed in detail on pages 25 through 28 of this chapter.

EPIC's operations and results

The heart of EPIC is the Watch Operation Section and the Analysis Section. The Watch Operation Section operates on a 24-hour, 7-day week schedule in order to support ongoing field investigations being conducted by Federal, State, and local law enforcement agencies.

Since EPIC became operational, users seeking information have steadily increased. In January 1975 EPIC recieved 429 inquiries. During May 1976 about 6,750 inquiries were received seeking information on suspects, aircraft, vehicles, fraudulent documents, smuggling, and related items. This increased volume suggests growing reliance on the system by user agencies.

Each of the participating agencies has given EPIC access to its pertinent data base. The TECS and DEA's Narcotics and Dangerous Drugs Information System (NADDIS) are accessible through computer terminals installed at EPIC. Lookout information received at EPIC, pertaining to individuals, vehicles, aircraft, and vessels that are suspected of participating in smuggling ventures, is placed in each participating agency's information system if relevant. This sharing of information among the agencies has facilitated arrests and seizures.

Our analysis of EPIC lookouts for a 4-month period between December 1, 1975, and March 31, 1976, that were placed in the TECS, INS, Coast Guard, and FAA systems disclosed the following:

	Results of lookouts
Lookouts placed	1,155
Response to lookouts	153
Arrests	42
Seizures:	
Marihuana	4,529 kilograms
Hashish	794 grams
Heroin	18,871 grams
Cocaine	7,320 grams
Jewelry	$600
Aircraft	10
Vessels	1
Vehicles	9

EPIC lookouts placed in October 1976 have provided agencies with information which resulted in five seizures yielding 51.5 pounds of brown heroin, 2 pounds of cocaine, 298,650 mini-amphetamines, and 35 tons of marihuana.

The Chief, Watch Operation Section, stated that recently there has been a noticeable increase in requests for information from EPIC by the Mexico City region. In October 1976 the region submitted 158 inquiries to EPIC seeking information and through EPIC placed 30 lookouts with TECS and 1 with INS.

A problem--too little intelligence from Mexico

Our work in Mexico showed that little information was being developed within Mexico to improve interdiction efforts at ports-of-entry and other locations along the Southwest border. Intelligence-gathering efforts within Mexico were geared to the eradication campaign and known trafficking operations within Mexico. Tactical and operational intelligence to support border law enforcement was a low priority item within the U.S. Mission, with limited cooperation from the Government of Mexico.

In June 1976 the U.S. Mission was developing little information to assist in intercepting drugs at the border. The Narcotics Control Action Plan (NCAP) for Mexico--the basic planning document for implementing and evaluating the bilateral program--while encouraging the development of drug intelligence capability with the Government of Mexico for incountry enforcement activity, was silent regarding the gathering and exchanging of interdiction-related narcotics information to assist border enforcement personnel.

Copies of all investigative reports that DEA agents develop dealing with opium poppy cultivation and trafficking organizations are forwarded to EPIC. Specific initiatives to monitor vehicle, boat, and aircraft traffic have occurred to a limited degree.

With the exception of several informants paid to monitor the movement of vehicles, aircraft, and boats suspected of transporting narcotics from the Mexican mainland through the Baja peninsula to Southern California, the DEA's Mexico City Regional Intelligence Unit's information forwarded to assist in intercepting drugs at the border consisted of responding to inquiries from EPIC, and occasionally obtaining data from Mexican officials on U.S. registered boats and aircraft traveling in Mexico. These actions have not provided the type of tactical intelligence necessary to identify specific shipments, or traffickers' plans, which could be acted upon by border enforcement agents.

The Chief, Analysis Section, at EPIC stated that he believes the Analysis Section receives all intelligence developed by the Mexico City region. This official said that the Analysis Section receives monthly reports, teletypes, and DEA records of investigation pertaining to arrests and seizures made by Mexican officials. He commented that EPIC needs information developed from debriefings of informant contacts, but the Mexico City region furnishes only about eight of these debriefings a month. He attributes the lack of debriefing intelligence to the fact that DEA agents in the Mexico City region are not involved in enforcement and case work, but primarily devote their efforts to liaison, training, and intelligence activities. It is very difficult for an agent to develop a contact when he is not involved in enforcement work.

The same official stated that the Analysis Section receives additional intelligence pertaining to Mexico from suspects that are arrested for possession of narcotics when entering the United States. This type of intelligence is a poor source of information because the violators are usually couriers transporting the narcotics and have little, if any, information about the smuggling operation.

Mexico's intelligence efforts need to be encouraged

An intelligence unit within the MFJP has been established. The unit is considered by DEA to be poorly staffed, inadequately trained, and reluctant to work with the DEA intelligence unit. None of the three MFJP agents trained in the United States for intelligence work were working in the unit. Although the need exists for more accurate and actionable intelligence, we noted no planned program to assist this unit in developing its capabilities through NCAP funding.

The sharing of intelligence information developed by the Mexican agents, which could benefit border interdiction efforts, has seldom occurred. During our visit to the U.S. Mission in Mexico during June 1976, we were informed that the MFJP and DEA had established a procedure for the exchange of information. We noted, however, that for the period November 25, 1975, through May 24, 1976, DEA's regional intelligence unit had forwarded 64 memorandums regarding drug intelligence to their Mexican counterparts, but had received responses to only 3.

DEA officials were able to identify only one instance where intelligence obtained within Mexico from the MFJP resulted in a significant border interdiction seizure. This example clearly shows the potential benefits when the MFJP provides tactical intelligence:

On January 17, 1976, a confidential informant told the MFJP that a blue and white Ford pickup truck bearing Arizona license XXXXX was enroute to Chicago, Illinois, with about 14 kilograms of heroin. The heroin was believed to be hidden in the door panels, and possibly in the drive shaft. The MFJP was unable to locate the vehicle within Mexico and an all-border lookout was placed in EPIC. When the vehicle was stopped and searched at the Hidalgo, Texas, port-of-entry, 14 kilograms of heroin were found. Two defendants were arrested.

The need to encourage cooperative programs with the Government of Mexico to improve effectiveness in stopping the shipment of illicit drugs is discussed in chapter 5.

A long-time problem--opportunities to consolidate and share intelligence support systems

Federal agencies operating in the border area have, over the years, developed their own systems and data bases to provide tactical, operational, and strategic intelligence [1] to support their basic enforcement missions. At the present, there are four separate data systems (three automatic and one manual) supporting enforcement efforts. These systems have unique aspects, designed to be responsive to the individual missions of the agencies. At the same time, to varying degrees, the systems contain elements and capabilities that are markedly similar, the primary differences being in the agency's orientation or intended use. The present or planned intelligence support systems of Customs, INS, and DEA are examples cutlined below.

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[1] Strategic intelligence--provides the situation overview and the magnitude of the problem. It is essential for the formulation of broad policy and strategy.

Operational intelligence--provides an overview of the modes of operation, traffic patterns, and principal personalities involved in the illegal operations at the border.

Tactical intelligence--provides the identification of specific traffickers and their methods of operation.

TECS, operated by the Customs Service, is the principal means of disseminating intelligence information to inspection and enforcement personnel at border crossing points, airports, seaports throughout the country. The predominant element of the system is a computerized operational suspect-file, housed in San Diego, California, which is linked to some 900 terminals located at major ports-of-entry, including 100 terminals located at land crossings along the Southwest border. The types of information contained in the system on individuals are

--name, race, sex, height, weight;

--date and place of birth;

--address information; and

--such identifying numbers as social security, driver's license, passport, National Crime Information Center, license plate(s), and aircraft.

TECS presently contains approximately 485,000 records of which 220,000 or 45 percent are narcotics case records. TECS has access to the National Law Enforcement Telecommunications System (NLETS) and the FBI's National Crime Information Center (NCIC).

The data system currently being used by INS is the Lookout Book System. This contains phonetically arranged names of persons for whom INS has established a "lookout." Persons listed in this system include immigration offenders; fugitives sought by the FBI, other Federal agencies, and State and local enforcement agencies; and suspected subversives and/or espionage agents whose names have been furnished by the State Department, Department of Defense, and the intelligence agencies. Although this is a manual data retrieval system, it is highly accessible and it requires an average of only about 5 to 12 seconds for an experienced officer to locate a name.

In fiscal year 1975 INS began development of an Alien Documentation, Identification and Telecommunication (ADIT) system. ADIT involves the replacement of all existing INS-issued alien registration receipt and border crossing identification cards with a computer readable card which cannot be easily counterfeited or altered. In addition to the identification cards, the system will consist of an automated central data base and operational remote access terminals. Eventually the system will include automated card readers for validations at approximately 200 ports-of-entry. Initially, the central data base is to be an ADIT/master index file, later interfacing with other INS data files for computer-aided enforcement and service functions. Plans provide for installation of the access terminals at primary and secondary inspection areas, district offices, regional offices, and border patrol stations.

Narcotics and Dangerous Drugs Information System (NADDIS) was designed by DEA to further investigations of drug violators. NADDIS is an operational automated retrieval system that provides biographical information on known violators and references to case files. The data includes

--the trafficker's residence, phone number, and such identifying characteristics as height, weight, and age;

--the drug involved and the level of the case;

--the trafficker's passport data, vehicle, boat, and aircraft numbers; and

--the trafficker's associates.

Like TECS, NADDIS has access to the FBI's NCIC criminal data files.

As previously mentioned, DEA is developing another computerized intelligence system, called PATHFINDER I. The principal objective of PATHFINDER I is to provide DEA with a totally integrated and centralized system for the automated storage, retrieval, and analysis of all sources of information relevant to illicit drug activities, as well as other types of criminal activity of interest to enforcement agencies. The PATHFINDER I data base consists of subjects, organizations, vehicles, aircraft, and vessels relevant to illicit drug activities.

PATHFINDER is the first of five phases in DEA's National Narcotics Intelligence System which is supposed to be completed and fully operational in 1981. Phase 2 is to combine the scattered data bases within DEA--Drug Abuse Warning Network (DAWN), System to Retrieve Information from Drug Evidence (STRIDE), Ballistics, and NADDIS. These data bases are to be combined under one system so that the analyst can derive indicators or patterns of activities from a consolidated base. Phase 3 will include the data bases external to DEA, such as TECS and NCIC. Phase 4 will see the complete fusion of all data bases under a master system, and Phase 5 will see the completion and full utilization of the National Narcotics Intelligence System.

According to a DEA official, the system may not completely replace other data bases (NADDIS, DAWN, etc.); however, a committee has been formed to look into the possibility.

Intragovernment suggestions for improved utilization of intelligence support systems

In commenting upon the intelligence function as an integral part of the overall narcotics supply reduction program, the Domestic Council Drug Abuse Task Force, in its September 1975 White Paper on Drug Abuse, observed that the problem of inadequate information storage and retrieval capability is complicated by the existence of four separate automatic data processing systems. The task force recommended an analysis of these systems be conducted, perhaps by OMB, with a view toward integration or at least improved interface.

In a 1973 report, the MITRE Corporation, after an analysis of the data elements and uses being made of the TECS and NADDIS intelligence support systems, concluded that the potential for duplication appears to have developed in Federal drug law enforcement intelligence data processing operations. Duplication could be avoided with the use of a common data base, common equipment, and compatible data accessing techniques. MITRE felt that, with the formation of DEA, certain functions accomplished by these systems could be combined to avoid unnecessary duplication.

The Domestic Council Committee on Illegal Aliens, in its December 1976 report, suggests that INS, Customs, and DEA jointly develop and share automatic data processing (ADP) and telecommunications. The report states that it appears feasible that ADIT could use the existing Customs ADP and communication network.

The INS Manager for ADIT advised us that interface with TECS and EPIC is envisioned. INS and Customs personnel have had several meetings to exchange thoughts on the development of the ADIT and TECS systems. As of January 1977 there had been no contact with DEA. No specific steps have been taken, since ADIT is not far enough into the design phase. He was only vaguely aware of the report by the Domestic Council Committee. He felt that INS' needs are unique, and TECS does not presently have inherent capabilities to fully satisfy ADIT requirements. Furthermore, he felt it could cost as much or more to upgrade TECS than to develop a separate system. However, no analysis or study has been done to confirm or deny this. On November 3, 1977, Justice told us that ADIT automated system design had just now been completed to the point where meaningful consideration of alternatives for implementation can be realistically evaluated. Plans for a joint ADIT/TECS experiment are currently being discussed.

The Commissioner of Customs advised us in December 1976 that if current plans are carried through, all arriving travelers at airports and seaports, including returning citizens, will be queried in ADIT, "a computerized lookout system similar to the already in-place and operating TECS." He felt that only a single system was needed and TECS could easily incorporate an index to the alien information data base without degrading response time, as is currently accomplished with the TECS/NCIC interface. His staff studied the possibility of incorporating these requirements, and found no real obstacles to implementation of a unified system. He suggested that

> "Under a single agency inspection system, each screening location would have a terminal to access simultaneously the complete file of all relevant enforcement information. A similar arrangement would be used under any system of single stop inspection; in essence, any agency inspector in primary could use the system. Obviously, compared to current plans, a jointly used system offers significant reductions in resource outlays for computers, related telecommunication systems, and possibly inspector processing time. The net effect would be greater facilitation, more effective enforcement and a leveling of governmental costs."

Customs believes that EPIC is unresponsive to its intelligence needs and duplicates many systems previously available. Customs believes that EPIC should be located at Washington Headquarters rather than El Paso, since it is serving as a national, rather than a Southwest border, information center.

Consistent with the concept of centralized collection of intelligence resources at Washington, Customs supported the creation of the Interdepartmental Intelligence Group-Mexico (IDIG-M), located at DEA Headquarters. In March

1977, however, Customs reassigned one of their three IDIG-M analysts back to Customs Headquarters after DEA and INS downgraded their commitment to the IDIG-M function. In a March 1977 letter to DEA, Customs stated the following:

> "EPIC and IDIG-M remain two separate efforts to deal with the Mexican narcotic problem, but even though they are under the leadership of DEA, neither communicate to combine their efforts. This division of effort into two ineffective units is doing nothing to aid Customs. If the IDIG concept cannot be realized, Customs will have no alternative but to continue withdrawing our representatives next from EPIC followed by more from IDIG-M."

A Domestic Council Task Force member also expressed concern about EPIC. OMB believed that EPIC's charter, or mandate, has been ambiguous and expansive in its mission, and that EPIC should be reexamined to determine its objectives. The Council member feels that EPIC is best at performing a "watch function" for DEA and as a clearinghouse for law enforcement information. According to a former OMB official, currently with the Office of Drug Abuse Policy, major constraints on EPIC functioning as a focal point for coordinating border enforcement activities are:

--EPIC can only have a limited scope because all of the analysis of intelligence data must take place in Washington, where comprehensive case files and the computer capability actually are located.

--EPIC will never be a focal point for coordinating border enforcement activities because of Customs nonacceptance of the role of DEA and DEA leadership at EPIC. OMB does not see any prospects for improvement in either area in the near future and, consequently, does not recommend any expansion of EPIC.

In commenting on our report, OMB agreed with the thrust of this official's analysis, but did not entirely share his convictions about the future of EPIC.

Justice did not agree with these opinions. In its opinion, EPIC precludes the need for comprehensive Washington files for anything other than background data since it concentrates on the analysis and dissemination of fresh intelligence--less than 30 days old. Furthermore, Justice believes EPIC is presently an effective clearinghouse for border intelligence and its effectiveness could be amplified if utilized by all border agencies. It stated that in an effort to enhance DEA/Customs Operations, the Administrator of DEA and the Commissioner of Customs have scheduled a series of meetings to develop improved cooperation between the agencies and thereby increase Federal drug enforcement effectiveness. As a result of these meetings, Justice believes that OMB's view that Customs is unwilling to accept DEA's role in EPIC appear to be premature.

Treasury said EPIC's limitations are not the result of inadequate participation or duplication with TECS but are caused by the limited intelligence available in the system. Treasury stated that the lack of intelligence is a result of DEA's belief that border interdiction plays a relatively insignificant role in its overall narcotics supply reduction strategy.

OPERATIONS

Smugglers enter the United States by four modes: through ports-of-entry; by boat into coastal areas between ports-of-entry; on foot or by vehicle between ports-of-entry; or over the border by air. Law enforcement efforts and selected support systems directed at countering illegal crossings are discussed below.

Ports-of-entry interdiction--difficult but possible

Border enforcement officials told us the majority of hard narcotics smuggled across the Southwest border comes through the ports-of-entry. Nearly all heroin seizures are made at these locations. The port-of-entry is probably the best border location for interdicting hard narcotics--the smuggler must at least present himself for inspection. Nevertheless, the drug interdiction task, even at the ports-of-entry, is extremely difficult--like looking for a needle in a haystack.

Little impact has been made on the amount of hard drugs estimated to come from Mexico. During fiscal year 1975 and 1976, Customs seized 262 pounds of heroin in 439 seizures at the Southwest border, including 405 at ports-of-entry. Of these, 11 seizures were in excess of one kilogram.

Ports-of-entry resources

Before crossing the border into the United States, vehicles and pedestrians are stopped at the primary inspection lanes where only the most cursory inspections of vehicles, persons, or baggage are conducted. The primary inspectors are responsible for determining whether a vehicle and its occupants or a pedestrian should be referred to the secondary inspection area for a thorough examination. Customs and INS share the responsibility for staffing the primary lanes. For example, INS inspectors staff 5 of the 10--out of a total of 24--vehicle inspection lanes at San Ysidro, California, which are usually open. Across the Southwest border, INS maintains a 37-percent presence, with a 50-percent presence at some ports such as El Paso.

As discussed in chapter 2, traffic coming through the ports and overall border expenditures have both increased in recent years. But there is still a shortage of inspectors at the four ports that we visited along the Southwest border. Inspector staffpower has a significant impact on the thoroughness of inspections performed at a port-of-entry. According to Customs officials, additional inspection personnel were necessary to adequately staff the primary and secondary inspection areas. For example, the facilities at San Ysidro were not fully utilized because of a shortage of inspectors. Although the port had 24 primary lanes and 70 secondary inspection spaces, they were not always used. We were told that one of the two secondary inspection areas, with 35 spaces, was never used on Monday through Friday.

In El Paso, Texas, there was a shortage of 12 primary lane inspectors. The District has had to sacrifice enforcement to move traffic. Special enforcement programs dictated by Headquarters have not been performed, since El Paso lacked the resources to carry them out. Secondary inspection personnel were used in the primary inspection area to process vehicular traffic in a timely manner. Primary inspectors were reluctant to refer many vehicles to the secondary, despite suspicions, because of the lack of inspection personnel. At the Laredo, Texas, port-of-entry there were 11 inspector vacancies. While the Customs force continued to decrease in size, the workload increased.

Detection aids--few with limited success

Judgment of the inspector is a critical ingredient in drug interdiction. The only detection aids available to assist the inspectors at the ports-of-entry are TECS data and trained detection dogs.

The value of TECS for port-of-entry drug interdiction is limited because it is keyed to vehicle license numbers.

Justice informed us that unless a "hit" is made or the vehicle referred to secondary inspection, the remaining information in TECS will not be queried. Inspectors are instructed not to rely on TECS data because there are many ways it can be circumvented.

The majority of Customs research and development efforts to improve border interdiction is aimed at between-ports airborne detection devices and ground sensor systems. About one-third of Customs research expenditures through fiscal year 1976 was to develop and test devices that detect drugs being smuggled into the United States through ports-of-entry. The Domestic Council's Drug Abuse Task Force recommended high priority be given to the development of improved technical equipment to detect easily concealed drugs. Efforts to control smuggling through the use of contraband detection devices and "sniffer dog" teams will be expanded during fiscal year 1978.

Detector dogs are an effective time-saving drug interdiction aid--dog teams are responsible for 27 percent of the narcotic seizures made by Customs. Nationwide, in fiscal year 1976, the dogs screened over 21 million units of cargo, mail, and arriving carriers. Their efforts resulted in the seizure of

--71.8 pounds of heroin,

--93.4 pounds of cocaine,

--4,260.6 pounds of hashish,

--52,954 pounds of marihuana, and

--2,914,574 units of dangerous drugs.

One seizure at the San Ysidro port-of-entry accounted for 30.75 pounds, or 43 percent, of the total heroin seized in fiscal year 1976. In this instance, an INS inspector referred a vehicle and its driver to the Customs' secondary inspection area. A detector dog alerted his handler to the back seat. The seat was removed and the heroin was found. A dog team can search a vehicle for drugs in about 5 minutes, while it might take an inspector 30 minutes to assure himself that no contraband is secreted in the vehicle. Effective use of the dogs, however, is dependent on the skill of primary inspectors, since the dogs are only used in secondary inspections. In addition, Customs officials told us that although the dogs are trained to search for all types of drugs, the dogs usually detect marihuana.

Customs and other officials believe much of the hard narcotics which comes through the ports is packaged and inserted into the human body, and therefore is extremely difficult to detect. Detector dogs are not used to search people, and inspectors are reluctant to perform intensive personal searches because of the difficulties involved. For example, Customs officials at San Ysidro are seldom successful in locating a medical facility or doctor willing to participate in these personal searches. Consequently, such searches are rare.

Intelligence data available to inspectors is very limited. Most port-of-entry drug seizures are "cold busts," that is, not based on prior information. Customs and INS officials continue to assert that one of their greatest needs is better intelligence data on the operational modes of smugglers. A study done for DEA concluded in 1974 that the volume of entries into the United States from Mexico is so great that narcotics seizures will not occur in any significant numbers unless there is hard tactical intelligence available to inspectors concerning the movements of illegal drugs.

Results--few drugs are seized

During fiscal years 1975 and 1976, the San Ysidro, Nogales, Laredo, and El Paso ports-of-entry accounted for about 75 percent of the total number of heroin seizures made at the Southwest border. The hard narcotic interdiction cases, and those involving one kilogram of marihuana or more, at these four major ports for the last 3 months of calendar year 1975 are summarized below.

Drug Seizures

	Heroin		Dangerous Drugs		Cocaine		Marihuana		Other
Ports-of-entry	No. of sei-zures	Quantity (grams)	No. of sei-zures	Quantity 5 gram units	No. of sei-zures	Quantity (grams)	No. of sei-zures	Quantity (kilo-grams)	No. of sei-zures
San Ysidro	26	3,493	9	1,063,530	16	1,732	59	2,684	4
Nogales	5	384	-	-	-	-	28	1,971	1
El Paso	1	10,206	25	714	1	57	33	916	4
Laredo	-	-	8	353	3	2	-	-	4
Total	32	14,083	42	1,064,597	20	1,791	120	5,571	13

It is evident that enforcement at the ports-of-entry is having little effect on the tons of heroin and other drugs entering the United States from Mexico.

Land patrols between ports-of-entry-- two separate yet similar activities

The vast areas between the ports-of-entry along the Southwest border and the limited resources available to prevent illegal entry demand that available resources be deployed in a manner to gain optimum results. The INS Border Patrol and the Customs Patrol have overlapping roles for control of illegal movements across the land borders between the ports. Poor coordination and cooperation between the Customs and INS border patrols, as well as costly overlapping facilities, cause conflict, tension, and marginal results.

The Customs Patrol and the Border Patrol face many common problems, use many common tools, and follow the same methods while pursuing their individual enforcement targets and goals. The agencies maintain separate border stations, sensor equipment, communication networks, and other support systems.

The enforcement strategies of the Border Patrol and Customs Patrol recognize that neither has the resources to cover the vast land area between ports-of-entry. To maximize interdiction, both agencies use ground patrols, air patrols, sensor equipment, and surveillance at known crossing points. The patterns of illegal entry result in concentrations of each agency's patrol officers in the same high-volume crossing areas.

Results achieved

Working in close proximity to the border, the Customs Patrol, whose primary interest is drugs and other contraband, often apprehends illegal aliens and the INS Border Patrol apprehends drug smugglers. The success of both in drug interdiction has overwhelmingly been with marihuana; the amount, as well as frequency of heroin, dangerous drugs, or cocaine seizures have been negligible. Customs and INS patrol officers express the opinion that heroin, dangerous drugs, and cocaine pass through. not between, the ports-of-entry. Our case analyses and other data support this observation. Almost without exception, Customs Patrol's interdictions of controlled drugs, other than marihuana, involved smugglers who originally entered through a port-of-entry.

At the four locations along the border, we analyzed 140 controlled drug interdiction cases of the two patrols during the last 3 months of calendar year 1975. Our analysis showed that 133 cases, or 95 percent, involved marihuana, of which 45, or 34 percent, were abandoned marihuana seizures without arrests. The following table shows the results of the interdictions made by the two patrols.

Locations	Drug seizures			
	Marihuana	Heroin	Other	Total
Nogales				
Border Patrol	28	-	1	29
Customs Patrol	38	4	1	43
San Ysidro				
Border Patrol	6	-	-	6
Customs Patrol	11	-	-	11
El Paso				
Border Patrol	17	-	7	24
Customs Patrol	7	1	-	8
Laredo				
Border Patrol	6	1	3	10
Customs Patrol	20	-	4	24
Total	a/133	b/6	16	155
Percent	86	4	10	100

a/Represent seizures totaling 20,357 kilograms of marihuana, of which 6,763 kilograms, or 33 percent, were abandoned, with no arrests made.

b/Represent seizures totaling 330 grams of heroin, with one of the seizures accounting for 211 grams, or 64 percent.

Coordination and cooperation of activities between ports-of-entry

In April 1975 the Commissioners of Customs and INS signed a Memorandum of Understanding mandating "full cooperation between the two Services." As stated in the memorandum, this cooperation includes

--common communication channels,

--immediate exchange of information,

--immediate alerting of the other as to projected operations,

- --coming to the other's assistance whenever called,
- --exchange of intelligence, and
- --performing the other's duties capably and professionally whenever so designated.

At the locations visited, we noted some communication at the management level, but limited coordination and cooperation at the working level. The patrol officers rarely work together, and we could not identify any joint operation between the patrols. Competition and animosity between the patrols continue to occur, causing tension and near confrontations. The following observations are illustrative.

- --Customs and INS patrolmen are unable to communicate directly with each other in the field because of incompatible radio systems which operate on different frequency ranges.
- --Remote sensors are deployed in close proximity to each other, and neither of the patrol forces know exactly where the other's sensors are located. The sensors are monitored at separate sites, with each agency unaware of the activity being detected by the other.
- --We accompanied the Border and Customs Patrol officers on patrols and observed the officers using essentially the same interdiction tools and techniques. Their knowledge of the other agency's patrol activities was limited to what they had observed while on patrol. To illustrate, at one location, we traveled the same roads along the border and were shown the same smuggling routes where both patrols had implanted sensors, but neither knew the exact locations of the others' sensors. They patrolled routinely until sensor alerts indicated smuggling activity. When it occurred, the patrolman drove to a predetermined spot, waited until the intruding vehicle appeared, stopped the vehicle, detected marihuana, and arrested the smuggler.
- --Patrol officers could not recall a single example of a joint operation or of assistance to one agency by the other on an as-needed basis, even though both agencies complained of insufficient staffpower. To illustrate, while waiting and watching with a Customs Patrol officer at a border canyon where a sensor hit

occurred, the supervisory patrol officer told us that lack of personnel would perhaps cause them to miss the intruder. Right after he made this statement, an INS Border Patrol car cruised slowly by our position, but no attempt was made to contact it and ask for assistance.

--The Chief Border Patrol agent in El Paso, Texas, stated that Customs will sometimes place a sensor right behind a Border Patrol sensor. The Customs Patrol Director said relations with the Border Patrol were terrible. He cited this example: In April 1976, near Columbus, New Mexico, after a Customs aircraft responded to a sensor hit which disclosed nothing, Customs relayed the negative result to the Border Patrol. According to the Customs Patrol official, the Border Patrol disregarded this information, dispatched an automobile to the scene, and was overheard on the radio to say: run the Customs people off the road, if necessary, to arrive there first. In a memorandum dated April 14, 1976, regarding this instance, a Border Patrol pilot stated that Customs Patrol had responded with two aircraft and, until a false alarm was reported, a Customs Patrol vehicle was following the Border Patrol vehicle to the site of the sensor. This memorandum stated it was apparent that Customs responded to the sensor alarm by monitoring the Border Patrol frequency. The Treasury told us this problem was resolved shortly after it was identified.

Air interdiction: effectiveness questionable

Air interdiction forces have had some success in apprehending smugglers using aircraft to cross the border. The results to date, however, are considered marginal.

DEA and Customs have speculated for years that heroin and other hard narcotics are smuggled into the United States by privately owned aircraft. Even though great potential exists to smuggle heroin by aircraft, air interdictions as well as analyses of aircraft crashes within Mexico and along the United States-Mexico border substantiate that marihuana is the commodity commonly being smuggled by aircraft. There is no evidence available which indicates that large shipments of heroin or other hard narcotics are being smuggled by private aircraft across the border.

We were unable to identify a single smuggling case where an aircraft known to have crossed the United States-Mexico border had other than traces of hard narcotics aboard. To illustrate, durng calendar year 1975 the single Customs air program case along the border involving a substantial amount of heroin was not an air smuggling case. The heroin was seized at the El Paso International Airport after being smuggled through a port-of-entry, then delivered to the airport for further shipment into the interior of the United States.

Implementing an effective program aimed at preventing drug smuggling by aircraft is difficult because, as described in chapter 2, a smuggler using an aircraft has many advantages that interdiction forces may be unable to counter. While DEA and INS have air resources deployed along the Southwest border, Customs has assumed the operational role of detecting and interdicting smugglers using aircraft.

The aircraft deployed by INS are not capable of air interception type operations. These aircraft operate at low altitudes and at slow speeds in support of Border Patrol ground activities. Similar aircraft are operated by Customs in support of Customs Patrol ground operations.

Customs air interdiction-- cost, use, and results

Since 1971 Customs has spent $25 million on aircraft and radar for the air interdiction program. In fiscal year 1976 salary costs, excluding overtime, for the four Southwest border Air Support Branches were about $1.3 million.

Customs has requested large increases in its air program including a jet aircraft and two twin-engine turboprop planes. In a response to the Southern Border Drug Abuse Task Force, Customs estimated that at the very minimum an additional $29.3 million in resources was required to adequately mount an effective war on the smugglers who utilize aircraft.

The Domestic Council Southern Border report cited the Customs air program as being only marginally effective, and OMB reduced the portions of Customs' fiscal year 1977 budget request for additional aircraft and support equipment. Customs could not show OMB how the additional aircraft would give significant results. Based on airplace crash data, OMB believed that primarily marihuana, the lowest drug priority, was being smuggled by air.

Routine patrol and surveillance, as well as support of special operations, characterize Customs use of aircraft. During our review we noted that the majority of the aircraft flight hours and missions were for:

--Patrol/search: routine border or port patrol not involved in a specific case.

--Surveillance: an aircraft is called in on a case or potential case for intelligence gathering purposes.

--Other: any type of mission or utilization not otherwise categorized, such as liaison missions (most of which are contacts with fixed based operators).

During fiscal year 1975 only 1.4 percent of the flight hours at the Tucson ASB, and 5.5 percent at the San Diego ASB, were for interception/apprehension where an aircraft was called in to assist in arrest or seizure.

Our followup of drug interdiction cases at the ASBs along the Southwest border for calendar year 1975 showed that very few major drug interdictions were made, and virtually all involved marihuana. The table below summarizes these activities.

Customs ASB Drug Cases
Calendar Year 1975

ASB branch	Total cases	Marihuana only: Cases	Marihuana only: Kilograms seized	Other cases: Number	Other cases: Type & quantity	Arrests
San Diego	a/27	b/21	4,760	2	1 trace, cocaine, 1 trace amphetamine, 97 kg. marihuana	53
Tucson	29	c/29	13,422	-	-	88
San Antonio	9	9	519	-	-	10
El Paso (note d)	3	2	366	e/1	2.4 kg. heroin	8
Total	68	61	19,067	3		159

a/Includes 4 cases where no drugs were seized.

b/Includes 6 cases where 1 kilogram or less was seized.

c/Includes 3 cases where less than 1 kilogram was seized.

d/Statistics for El Paso are for period July 1, 1975, through May 31, 1976.

e/The heroin seized did not come from Mexico aboard an aircraft; it was delivered to the suspect's aircraft at the El Paso International Airport.

DEA aircraft operation

DEA's annual operating cost for the air program is about $2 million. The program's basic mission is to support enforcement operations. Air-to-surface surveillance flights account for the majority of the missions, about 60 percent. Increasing numbers of pilots and aircraft are being devoted to special operations, particularly Operation Trizo, the opium eradication campaign in Mexico.

A recent DEA evaluation of air operations disclosed that, overall, the air program is meeeting its basic objectives, both domestically and in foreign operations, but, as presently structured and supported, is accomplishing its mission through "makeshift" techniques in the absence of planned programs encompassing aircraft procurement, utilization, maintenance, safety, pilot training, and career development. In discussing problems pertaining to the air program's operations, the evaluation report questioned the program's involvement in gathering intelligence data, as that function duplicates, to a large measure, the Customs air interdiction role and has, to date, borne limited accomplishments. While DEA pilots are special agents, they are nonproductive from an investigative standpoint since they neither develop nor conclude investigations. The DEA evaluation team found that (1) pilots' involvement in undercover capacity is minimal--less than 10 percent of total air missions, (2) pilots do not testify in court, do not write surveillance reports, and rarely are involved in arrest situations, and (3) in all instances of air-to-surface surveillance, pilots are accompanied by a special agent who serves as radio operator, observer, and the recorder of facts.

Eleven of DEA's 39 aircraft are stationed along the United States-Mexico border with many in close proximity to, and having similar capabilities of, Customs aircraft. DEA, Customs, and INS have separate aircraft maintenance and support facilities.

Marine drug interdiction--some success, but increased cooperation and program integration are needed

Customs, DEA, and the U.S. Coast Guard all have roles in preventing drug smuggling by vessel. These agencies have had some success in stopping marihuana smuggling by vessel. Several large interagency marihuana seizures have been made in cooperation with State and local enforcement personnel. Generally, however, marine enforcement efforts have rarely resulted in hard narcotics seizures in other than user amounts, and have not been effectively planned and integrated.

Interdicting drug smugglers on water is difficult, as discussed in chapter 2. Intelligence data, the key ingredient to any interdiction effort, seldom has been available. Occasional joint operations and routine interdiction and enforcement activities characterize the marine operations of enforcement agencies in the Southern California area. Customs and DEA vessels seldom have been operated.

Customs

The Customs Marine Support Branch in San Diego, California, with 13 patrol officers and three vessels, made 10 marine drug interdictions during 1975. Seventeen middle- and lower-level violators were arrested. In two of the cases, no arrests were made--abandoned loads of marihuana were found. The Marine group seized 2,315 kilograms of marihuana and 14 grams of heroin.

A marine drug interdiction made during 1975 is summarized below to illustrate the operation mode of the Marine Support Branch:

> While investigating marine smuggling activities at a local marina in January 1975, Customs Patrol officers (CPOs) observed a boat being launched. Immediately after launching the boat, the tow vehicle and trailer departed the area, arousing the suspicions of the CPOs. After further inquiry disclosed that the boat had been the subject of a Harbor Police report nearly 4 months earlier, the CPOs decided to maintain surveillance, and an additional CPO was called in to help. When the boat departed the marina, a Customs airplane was called in to assist in surveillance. The boat was observed from the air to enter Mexican waters and return to San Diego Bay, where a search of the vessel yielded one-half ounce of heroin, 300 kilograms of marihuana, a small amount of hashish, and a "hash" pipe.

The Marine group did not use a vessel during the interdiction.

Vessel utilization and value data are shown in the following table.

San Diego Customs Marine-Support-Branch
Vessel Value and Utilization Data
January 1975 thru June 1976

	Number of days						
	Patrolling results						
	Positive	Negative	Training	Maintenance	Other (note a)	Not used	Approximate value
38' Bertram	-	125	7	14	25	376	$110,000
26' Livesay	5	98	2	52	17	373	23,500
16' Nauset (note b)	-	-	-	1	13	351	4,200
Total	5	223	9	67	55	1,100	$137,700

a/Testing and demonstration to visitors.

b/Does not include data for January 1976 through June 1976.

The San Diego Customs Marine Support Branch participated in four special operations between October 1974 and November 1976. The last two operations involved DEA and the Coast Guard, as well as other Customs units. The marine involvement in these operations was limited primarily to picket line duty and intelligence gathering activities, which resulted in a small number of marine drug interdictions. These interdictions all involved marihuana. Operation Star Trek, the longest operation, was held from September 20 through November 11, 1975. Customs, DEA, and the Coast Guard were involved in the marine segment of the operation, utilizing 11 vessels and 1 aircraft. Their combined efforts resulted in one drug interdiction which was the result of a Coast Guard search and rescue mission. They arrested one suspect and seized 296 kilograms of marihuana. Three of these special operations are discussed in greater detailed on pages 46 to 49.

DEA uncertain of its role

The DEA San Diego district office has one agent assigned part-time to marine drug enforcement. The district office has two vessels, a 36-foot Uniflite and a 24-foot Wellcraft. The Uniflite, valued at about $70,000, was used only about 54 hours during 1975, and 29 of those hours occurred in January. The Wellcraft, valued at about $8,000, has never been used by DEA because needed repairs have not been made. This vessel was seized by DEA in Miami, Florida, and transferred to San Diego in July 1975 at a cost of $3,000, which included a boat trailer. As of April 1977 funds had not been authorized by Headquarters to make the repairs.

DEA's marine program could be improved by increased Headquarters direction and development of clearly defined objectives and operational modes. The following example illustrates the need for such improvement:

--The DEA Assistant Administrator for Enforcement stated in a memorandum dated April 23, 1975, to the Los Angeles, Miami, and New Orleans Regional Directors, that an "in-depth" evaluation of DEA's boat program had been conducted. DEA concluded that five vessels transferred from Customs at the time of the reorganization did not adequately meet DEA's investigative mission. He further stated that DEA would offer these vessels to other government agencies and either put seized vessels into service or rent vessels when needed. The Assistant Administrator, however, issued another memorandum dated May 12, 1975, to all domestic Regional Directors regarding DEA policy on water craft. As a result of his evaluation, he wrote, "we have determined there is a definite utility for water craft in the accomplishment of DEA's mission." The vessels were retained by DEA.

--In February 1976 in an interview with GAO, the Acting Chief, Special Enforcement Programs, said that the DEA boat program is considered an ongoing active enforcement tool. The original "in-depth" evaluation consisted only of a few telephone calls. Following the issuance of the Assistant Administrator's first memo, the Acting Chief and others visited the sites of the boats and concluded that the vessels were needed in the DEA enforcement effort. The Acting Chief told us that "the boats in DEA are more or less like fire engines. That is, they may sit for long periods of time unused, but occasionally you really need one."

In a March 1975 memo, a San Diego DEA official wrote concerning the marine program that "guidelines for sufficient enforcement are undefined and ineffective." As late as May 1977, it was recognized by the DEA official in charge of the marine program in San Diego that "DEA continues to ignore its responsibilities of initiating marine intelligence and follow-up investigation * * *." Thus, according to this official, DEA is failing to support combined Customs/DEA/Coast Guard efforts.

Coast Guard

The Coast Guard in recent years has emphasized marine law enforcement as a primary mission, including the interdiction of illicit narcotics.

The 11th Coast Guard District's area of responsibility along the California coast extends from the Santa Maria River to the Mexican border. The Chief of Operations said that the increased emphasis was in response to what the Coast Guard perceived as an increase in smuggling by vessel. He said the District can dedicate men and equipment for a period of time; beginning May 18, 1976, they maintained a vessel on law enforcement patrol 24 hours per day at least 85 percent of the time. As of November 1976 this patrol had not resulted in a single drug interdiction. Coast Guard officials attributed this to their not receiving the kind or amount of intelligence data needed. The District's participation in a recent joint operation was much less than in a similar operation a year earlier. The Coast Guard is essentially operating its own program because of its own law enforcement responsibilities.

Unclear understanding of whether the Coast Guard or Customs has primary jurisdiction on marine narcotics interdiction has led to some problems. To illustrate, Customs officials told us the Coast Guard has requested that local police in an oceanside community with whom Customs had been maintaining liaison furnish the Coast Guard rather than Customs any information regarding suspect vessels.

Joint operations--limited coordination

The White Paper on Drug Abuse recommended that a program be developed for more effective border control and that Customs, DEA, and the U.S. Border Patrol vastly improve their coordination of activities along the border, including joint task force operations.

Since September 1975 when the White Paper was issued, there have been three intensified interdiction operations along the United States-Mexico border. These were to be cooperative and coordinated efforts among various Federal agencies and were aimed at more effective border control. During these Customs-initiated operations, FAA and the Department of Defense were to provide air radar support. There was nominal or no coordination among the enforcement agencies. Interdiction results were varied; some large seizures of marihuana were made but heroin seizures were disappointing. Marihuana represented the overwhelming majority of drugs seized. These operations are discussed below.

Texas-Mexico border

Operation Diamondback, a joint operation aong the Texas-Mexico border, was to augment Customs resources with those of other Federal enforcement agencies in an effort to achieve maximum effectiveness in interdiction capabilities. The DEA, Border Patrol, Coast Guard, and FAA were to be equal partners, and by integrating their efforts the interdiction function was expected to be more efficient. The operation was conducted for a 37-day period beginning on April 20 and ending May 26, 1976.

In evaluating the program, the participants reported lack of planning, coordination, cooperation, and information/intelligence. Some of the observed problems were:

--Fundamental planning and coordination of the operation never got out of the idea stage. The decisionmaking process was very poor due to confusion as to who had the authority and responsibility for directing actions. In essence, the land, sea, and air units were going their separate ways.

--An incorrect assumption was made that the area to be covered during the operation had FAA and North American Air Defense Command (NORAD) radar coverage.

--Personnel to maintain/operate the mobile radar units and staff the Tactical Command Post were insufficient and improperly qualified.

--Intelligence data to field units from a headquarters or command level was nonexistent.

The INS Border Patrol had no involvement in the operation except for being notified at the implemental stage. DEA's participation was limited to agents accompanying Customs agents into the interior of Mexico to record the names/

identification numbers of suspect vessels and aircraft. A Customs Patrol official pointed out that one possible source of intelligence would have been to have the Customs liaison office at EPIC provide analyses in advance of the operation, with updates during the operation.

In a memorandum to Customs the Coast Guard stated that, "this operation was rushed into execution with little or no planning at the field level and consequently was fraught with many flaws." Customs ASB and Customs Patrol officials considered the air and sea operations a failure; no arrests or seizures were made. Total drug seizures from other operational modes were

--13,013 pounds marihuana and

--402,134 5-grain units of dangerous drugs.

California and Arizona-Mexico border

Customs initiated two interagency operations along the California and Arizona-Mexico border, Star Trek I and II. Star Trek I was held in late 1975 and Star Trek II about a year later.

Star Trek I was to involve DEA, Coast Guard, FAA, and the Air Force. DEA was to provide intelligence data. INS was not mentioned in Custom's operation plans and did not participate. The intensified day and night, land, sea, and air operation lasted 52 days. It was aimed primarily at interdictions between ports-of-entry. The temporary duty personnel and equipment assigned to the operation were deployed accordingly.

Some large marihuana seizures were made by the Customs Air Support Branches. The marine enforcement groups made only one marihuana seizure; that resulted from a Coast Guard search and rescue mission rather than the special operation. Most of the cocaine was seized away from the United States-Mexico border by the Los Angeles District Customs inspectors, while the overwhelming majority of the heroin and dangerous drug seizures were made at land ports-of-entry.

Customs noted that a weakness of the operation was the scant information provided by DEA, especially regarding the Arizona-Mexico border area. The El Paso Intelligence Center was not asked to support Star Trek I, according to the EPIC Director. There were only two telephone calls received by EPIC from Star Trek personnel during the 52-day operation.

Drug seizures were

--46,141 pounds marihuana,

--81 pounds hashish,

--90.7 pounds cocaine,

--2.5 pounds heroin, and

--1,540,861 5-grain units of dangerous drugs.

Star Trek II was a 40-day operation, to be supported by DEA, FAA, Air Force, and the Coast Guard. Cooperation among the enforcement agencies was poor and the lack of intelligence data regarding drug smuggling was still a major weakness. Customs reported receiving only three pieces of intelligence from DEA which resulted in seizures.

In May 1976 the Coast Guard initiated its own law enforcement patrol program. The Coast Guard participation in the Star Trek II operation was much less than in Star Trek I. There were no joint patrols using Customs and Coast Guard boats, planes, and other equipment. Customs Patrol officers were aboard Coast Guard vessels occasionally during the operation. The Officer-in-charge of Operations, 11th Coast Guard District, said the Coast Guard followed its own patrol program and operated independent of Customs. Customs was advised to call if support was needed, but no such requests were received during Star Trek II.

As in Star Trek I, primarily marihuana was seized. Inspectors at ports-of-entry intensified their operations to coincide with Star Trek II. The quantities of different narcotics seized mostly exceeded those of Star Trek I. The first significant seizure of Star Trek II was made by a mobile task force of Customs inspectors assigned to a small port in Arizona.

Drugs seized during Star Trek II were

--33,294.8 pounds marihuana,

--.15 pounds hashish,

--11.38 pounds cocaine,

--4.53 pounds heroin, and

--4,946 5-grain units of dangerous drugs.

CONCLUSIONS

Control of the United States-Mexico border is a complex and difficult task that requires a comprehensive, coordinated effort by all segments of the Federal law enforcement community.

Over the past few years the Congress, executive branch, and we have issued reports dealing with efforts to control illegal entry of people and things into the United States. Studies by the Congress and the executive branch have delineated the policy and direction that such a program should take and the areas of operation that should be improved. The predominant recurring theme of these reports and studies is the need for greater coordination and cooperation among the various agencies having enforcement responsibilities in this area.

While some recommendations have been implemented, the essential characteristics of the problems remain. Separate agencies with different orientations continue to identify the best activities to meet their missions with limited consideration for the activity of others. This had led to the development of separate but similar lines of effort that continue to dilute border coverage and impact. Little consideration is given to overall border security.

We believe that sound management principles and the inherent difficulties of multiagency cooperation call for an integrated Federal law enforcement strategy and a comprehensive border control plan. A specific plan is needed to assure that all responsible agencies are pursuing established goals and that operational responsibilities for specific missions are established. The objective of the plan should be to obtain maximum border security with available resources by minimizing unnecessary duplication and overlapping. Such a plan, in our opinion, should include single-agency management and responsibility. For example, law enforcement interdiction at every port-of-entry in the country should be handled by one agency, whether it be Customs or INS. The same would apply to interdiction by (1) land, (2) sea, or (3) air at points away from the ports-of-entry. Single-agency management was recommended in our report, "A Single Agency Needed To Manage Port-Of-Entry Inspections - Particularly At U.S. Airports," dated May 30, 1973. We envision that single-agency management would include the authority and responsibility for the development and maintenance of all support activities, including a single automated lookout system. Besides managing the day-to-day operations of the ports-of-entry, the agency would be responsible for the research and development of all new techniques and devices to improve detection of people, drugs, and other contraband entering illegally.

Two critical elements to devising and operating such a plan would be:

- --A comprehensive analysis of the various border law enforcement agencies' total resources to facilitate integration of the various missions into the overall Federal strategy. Such an analysis would permit identification of areas of overlapping operations and duplicative equipment.

- --A study of the various alternatives for managing border operations ranging from the present management structure to single-agency management.

Federal investment in law enforcement activity along the Southwest border has been increasing steadily over the years, but has had only a minor impact on the alien and drug problems. Law enforcement agencies continue to seek additional funds, without clear support as to meaningful results or impact. For example, we concur with OMB's position that Customs' air interdiction has only been marginally effective and has not justified additonal aircraft and support equipment requested.

RECOMMENDATIONS TO AGENCIES

As an initial step to strengthen law enforcement at the border, we recommend that the Director, Office of Management and Budget, prepare an annual analysis on law enforcement along the United States-Mexico border. Such an analysis would bring together the separate budget requests of the various border enforcement agencies to facilitate integration of agencies' plans, programs, resources, allocations, and accomplishments. An essential element of the analysis should be a statement of strategies and milestones to show the most important results intended to be accomplished over a period of time (e.g., 1, 2, or more fiscal years) with the resources requested from the Congress. This analysis should be provided to the Congress with the agencies appropriation requests. In concert with this analyses, we recommend that OMB and ODAP, together with the Attorney General, Secretary of the Treasury, and other Department Heads having responsibility for border law enforcement, develop an integrated strategy and comprehensive operational plan for border control. This plan should consider the various alternatives for managing border operations ranging from the present management structure to single-agency management. Also, OMB should coordinate closely with responsible congressional committees as to legislation needed to accomplish the proposed plan.

RECOMMENDATIONS TO THE CONGRESS

The plans and programs of the Department of Justice, Department of the Treasury, and other departments responsible for securing our border are subject to authorization by a variety of appropriations and legislative committees within the Congress. Because of the problems discussed in this report--Federal agencies, having separate statutory responsibilities, competing for limited resources where complex long-term national problems of drug abuse and aliens, come together at the border with Mexico--we recommend that the appropriate congressional committees or subcommittees hold oversight hearings to evaluate past performance and to provide guidance for future activities. OMB, ODAP, and agency action in carrying out our recommendations should provide the data needed for evaluating the problem and determining what legislation is needed.

CHAPTER 5

OPPORTUNITIES FOR IMPROVING THE DETERRENT EFFECT OF BORDER LAW ENFORCEMENT

Improved interdiction capability can do little by itself to deter smuggling unless the penalties imposed outweigh the benefits derived. Opportunities exist to diminish the incentive to smuggle drugs into the United States by expanding the jurisdiction of Federal magistrates, selectively enforcing existing administrative santions, and encouraging enforcement improvements in Mexico.

OVERVIEW OF THE EFFECT OF CRIMINAL AND ADMINISTRATIVE SANCTIONS

The Federal Government has criminal and administrative sanctions to punish drug smugglers. These include forfeiture of conveyances used to smuggle narcotics, administrative fines levied by the Customs Service, suspension or revocation of air smugglers' pilot licenses by the FAA, and prosecution of the smuggler by the U.S. Attorney. Our review of drug smuggling cases made by Federal law enforcement agencies along the Mexican border showed:

--Most drug smugglers caught bringing in greater-than-user quantities of controlled substances are prosecuted, but few are major violators.

--Forfeiture of conveyances used to smuggle narcotics can be easily avoided or minimized by the experienced smuggler.

--Penalties and fines are seldom levied againt drug smugglers and, when levied, almost always go unpaid.

--Revocation or suspension of a smuggler's pilot license seldom occurs.

To evaluate the action taken following a drug interdiction at the locations visited, we reviewed (1) all sea and air interdiction cases for calendar year 1975 and (2) port-of-entry and land patrol interdiction cases for the last quarter of calendar year 1975 involving heroin, cocaine, dangerous drugs, and one kilogram or more of marihuana.

Who is being prosecuted and convicted?

Many more violators are apprehended than prosecuted for bringing illegal drugs across the border.

Individuals apprehended while smuggling small quantities of drugs into the United States, often for personal use, comprise by far the largest category of those apprehended. The overwhelming majority of these are not prosecuted. They are rarely detected away from ports-of-entry, account for over half the drug interdictions, and usually do not meet the U.S. Attorney's criteria for prosecution. To illustrate, interdictions in the category which were not prosecuted represented about 60 percent of the port-of-entry interdictions at San Ysidro and Nogales during the last quarter of calendar year 1975. During the period January through August 1976 about 780 or three-fourths of Customs and INS interdictions in the San Diego area were in this category and were not prosecuted by the U.S. Attorney. In the majority of these cases the persons apprehended paid fines in lieu of forfeiting automobiles. Pedestrians, if not prosecuted, are released without penalty.

Most smugglers caught bringing in greater-than-user quantities of illegal drugs are prosecuted. Seven out of every ten cases in our sample involved marihuana only, with those involving other illegal drugs almost exclusively associated with ports-of-entry. Almost without exception, the air, sea, and land cases involved marihuana. As shown on the following chart, in the cases we reviewed, 69 percent of those arrested were indicated; of those indicted whose cases were completed at the time of our review, 84 percent had been convicted.

	Arrest cases reviewed	Smugglers			
		Arrested	Indicted	Pending	Convicted
Port-of-entry	117	169	96	10	76
Non-port-of-entry					
Land patrol	53	82	59	2	50
Air patrol	48	141	114	21	70
Sea patrol	8	17	15	2	13
Totals	226	409	284	35	209

The 209 convicted smugglers received the following criminal penalties:

Criminal penalties	Number of smugglers
Length of prison term (months):	
Up to 6	60
7 to 12	23
13 to 24	33
25 to 48	19
49 to 60	10
61 and over	4
Total	149
Probation	46
Federal Youth Correction Act--indeterminate sentence	8
Fines (note a)	1
Other (note b)	5
Total	209

a/Thirteen convicted smugglers received fines in addition to prison sentences.
b/Convicted but sentencing unknown.

Expanding the use of magistrates can help

Although there has been a shift in priorities to the higher-level trafficking networks and to drugs which pose a greater risk to society, the Federal law enforcement community is left with the problem of enforcing laws against small-time smugglers. The problem is particularly acute for marihuana interdictions made along the Southwest border. One way to increase the risk of prosecution for these lower-level violators would be to expand the trial jurisdiction of U.S. magistrates. At present there are no Federal narcotics statutes with penalties low enough to allow the case to be heard before a magistrate.

Under existing law the U.S. District Courts may designate U.S. magistrates to try and to sentence persons accused of certain minor offenses for which the penalty "does not exceed imprisonment for a period of 1 year, or a fine of not more than $1,000, or both." It is the view of the Judicial Conference of the United States that there are a number of misdemeanors in the United States Code not presently included in the term "minor offense" which could properly be tried by U.S. magistrates. These include the illegal possession of drugs (21 U.S.C. 841(b)). The Conference believes that an increase from $1,000 to $5,000 in the magistrates' jurisdiction for minor offenses, while retaining certain exceptions presently enumerated in the statute, would provide a beneficial expansion and would thereby relieve U.S. district judges of some of the burden in handling minor crimes which are misdemeanors. In our prior report, "The U.S. Magistrates: How Their Services Have Assisted Administration of Several District Courts; More Improvements Needed "(B-133322), September 19, 1974, the benefits of expanding the authority of and increasing the use of magistrates was discussed. The report recommended that the Congress consider modifying the Federal Magistrates Act to expand the magistrates' trial jurisdiction to include most misdemeanors. Legislation introduced into the 94th Congress to accomplish this was not enacted. Legislation to expand magistrates authority has been introduced in the current session, however (H.R. 7493, S. 1612, and S. 1613).

Sixty-six percent or 137 of the 209 convicted smugglers received criminal sentences of 1 year or less, which is within the existing misdemeanor authority of magistrates. However, these cases were precluded from being prosecuted before magistrates because the maximum penalties (fines) that could have been imposed under the indicments exceeded their trial jurisdiction. Yet, a fine was imposed in only 14 cases, with three of these above $1,000.

The expanded use of magistrates could significantly reduce the amount of time U.S. Attorneys, public defenders, investigators and apprehending officers spend on each case. It could relieve (1) the dilemma U.S. Attorneys face along the Southwest border when a violator does not warrant felony prosecution and (2) the U.S. District Court's time spent on first-time apprehension of couriers or narcotics users attempting to support their habit. U.S. Attorneys believe the latter merits punitive action beyond mere confiscation of vehicles used to smuggle drugs. Even greater savings could result at locations along the border such as Calexico, California, where the nearest Federal court is 125 miles away in San Diego while a U.S. magistrate is located in El Centro, California, only 18 miles from Calexico.

PROSECUTION OF BORDER INTERDICTION CASES IN MEXICO CAN BE EFFECTIVE

Turning back selected border interdiction cases to Mexican enforcement officials has been a successful alternative to Federal prosecution in the United States. In some cases, investigation by Mexican enforcement officials led to the identification and arrest of major drug suppliers when the cases were considered to hold little followup potential on the United States side of the border. The use of this technique, however, has been confined to a small number of interdiction cases. Continued or increased use of the turnback procedure can help solve prosecution problems. To turn a case over to Mexican authorities, the smuggler must be a Mexican citizen residing in Mexico. If a vehicle is involved, it must be registered in Mexico.

In Arizona, the U.S. Attorney has given DEA blanket authority to turn drug cases over to Mexico. DEA officials believe the turnback procedure is a good enforcement tool, although there are at least two problems. First, few MFJP agents have been assigned along the border, and frequent turnover of personnel has hampered the continuity needed for effectiveness. Second, Customs said it has no authority to turn a seized vehicle over to the Mexican officials who need it to prosecute a case.

In the San Diego District five drug interdiction cases were turned back to Mexican enforcement officials during January and February 1976. The potential of the turnback procedure is illustrated by one of these cases:

> A Mexican citizen was arrested at a port-of-entry attempting to smuggle small amounts of heroin and cocaine into the United States. After questioning the subject regarding his source without success, DEA turned him over to the MFJP who persuaded him to cooperate and lead them to his source of supply. The supplier was also induced to cooperate, and further investigation led to a higher-level supplier. In total, four suspects were arrested: one Class I, one Class II, and two Class III. Another Class I suspect escaped. This investigation enabled the MFJP and DEA to disrupt a trafficking organization they had previously been unsuccessful in penetrating. Prior to these arrests, DEA had planned a task force solely to combat the same organization; the turnback case made the task force unnecessary.

The U.S. Attorney's Chief, Criminal Division, Southern District of California, told us that this alternative to prosecution in U.S. Federal Court has resulted in a decrease in the number of people willing to become "mules" (couriers) who smuggle drugs across the California/Mexico border.

SEIZURE OF VEHICLES AND AIRCRAFT HAS LITTLE DETERRENT VALUE

Conveyances used to smuggle drugs may be seized and forfeited in accordance with the provisions of 19 U.S.C. 1595a. The Customs Service can seize smuggling conveyances and forfeit them administratively if the value is less than $2,500. Conveyances having a value of $2,500 or more must be forfeited judicially. 1/

For smuggling cases involving very small amounts of drugs (excluding heroin and cocaine), Customs Headquarters has developed guidelines for mitigating vehicle forfeitures down to a $100 to $300 fine, where the District Director of Customs is satisfied the drugs were not intended for resale. With few exceptions, these guidelines were being adhered to at the ports-of-entry where we followed up the disposition of small smuggling cases.

For cases involving larger amounts of drugs, Customs generally was successful in forfeiture actions where the apprehended smuggler was the owner of the vehicle. The following table summarizes drug-related vehicle seizures at the four border sites we visited:

Vehicles	Number	Percentage
Forfeited	192	59
Returned with mitigated penalty	46	14
Returned without penalty	63	19
Pending or disposition unknown	26	8
Total vehicles seized	327	100

Of the 63 vehicles returned without penalty, at least half were returned to a rental agency, lienholder, or other legal owner not implicated in the case. The other vehicles were returned for various reasons, i.e., the car belonged to a passenger or driver who appeared uninvolved, the smuggler cooperated with authorities, or criminal prosecution was dropped.

1/In our report "Drugs, Firearms, Currency, and Other Property Seized by Law Enforcement Agencies: Too Much Held Too Long" (GGD-76-105, May 31, 1977), we recommended that the Congress raise the limit of administrative forfeitures.

The Customs Service was much less successful in forfeiture actions against seized aircraft used in smuggling drugs. Our analysis of 56 aircraft seized in drug-related cases by the four Customs Air Support Branches showed that only 6, or 11 percent, were forfeited and 28, or 50 percent, were returned without penalty:

Aircraft	Number	Percentage
Forfeited	6	11
Returned with mitigated penalty	9	16
Returned without penalty	28	50
Pending or disposition unknown	13	23
Total aircraft seized	56	100

Of the 28 aircraft returned without penalty, about 80 percent were returned to a legal owner not implicated in the case. The remaining aircraft were returned for various reasons, including insufficient evidence or owner cooperation with authorities.

It is unlikely that the seizure of a conveyance will deter drug smuggling for three main reasons:

- --The smuggler often uses a conveyance in which he has little or no financial interest such as a rented, borrowed, or heavily financed vehicle or aircraft. If it is seized, the smuggler has lost little.
- --Automobiles used by smugglers often are old and of little value. For instance, the average age of the 90 vehicles seized at San Ysidro during a 3-month period was 8 years.
- --The value of smuggled drugs is so high that possible loss of a conveyance is viewed as a cost of doing business.

ADMINISTRATIVE PENALTIES--SELDOM LEVIED AND ALMOST ALWAYS UNPAID

Title 19 of the United States Code contains several statutes which provide Customs the authority to administratively fine persons transporting illegal narcotics into the country. Most of these statutes were not being used to penalize apprehended drug smugglers at the locations we visited. In a small number of instances, penalties were levied against marihuana smugglers using aircraft, but were rarely collected.

A listing of the statutes and circumstances under which penalties can be applied against drug smugglers is presented in appendix II. In short, any person who fails to report arrival from a country, or fails to declare acquired possessions, can be fined by Customs.

Customs Headquarters was unable to tell us whether the various statutes were being used to penalize drug smugglers. A Customs official stated that the statutes were being used, but could not tell us if they were being used against drug smugglers. At the district office level, where the penalties are issued, we found that most of the administrative sanctions are routinely excluded from consideration for the following reasons:

- --Few of the smugglers apprehended have the potential to pay or offer a reasonable prospect of collection due to incarceration or having assets well concealed.
- --Substantial time and effort are involved in Customs attempting to collect when such penalties have been levied.
- --As a last resort, if an individual refuses to pay Customs, the penalty case is referred to the U.S. Attorney, who places low priority on penalty collections because of the limited collection possibilities.

We did find assessment of administrative penalties in marihuana smuggling cases involving aircraft, but our analysis of 27 fines issued against smugglers disclosed only 2 instances where the fines were collected. All of the fines related to one or both of the following types of violations.

Navigation penalty

Private pilots must report to Customs or the Federal Aviation Administration at least 15 minutes prior to entering U.S. air space along the Southwest border and must land (unless exempted) at a designated airport for Customs inspection. Any pilot violating Customs aircraft reporting requirements is subject to a penalty of $500 for each of the three sections of the regulation violated or a maximum penalty of $1,500 (United States Code, Title 49, Section 1474 and Sections 6.2 and 6.3 of the Customs Regulations).

Our case analysis showed that this penalty is often issued by the Customs District Director but is seldom paid. Of 23 penalties issued at a dollar value of $29,000 a total of $800 had been collected in two cases.

Failure to manifest merchandise

United States Code, title 19, section 1584, Falsity or Lack of Manifest, provides for a $500 penalty for failure to produce a manifest of merchandise on any vessel or vehicle bound to the United States. Failure to manifest can result in a penalty equal to the value of the merchandise not manifested. If the merchandise includes narcotics, the master of the vessel or person in charge of the vehicle is liable for a penalty of $50 for each ounce of heroin, morphine, cocaine, isonipecaine, or opiate; $25 for each ounce of smoking opium or marihuana; $10 for each ounce of crude opium.

We found that only one of the five Customs district offices visited was using this penalty. That district was restricting its use to pilots of aircraft smuggling marihuana across the border. The other districts felt that the statute could not be applied to smuggling by aircraft. A Customs headquarters official informed us that while there is some statutory doubt as to whether these penalties can be levied, Customs has on occasions used this authority. This official further stated that due to the severity of the penalties under section 1584, such penalties are considered relatively meaningless because of the difficulty in making collections.

We noted four such cases where a district levied penalties against pilots smuggling marihuana. The penalties issued averaged $258,000. The size of these penalties, however, made the U.S. Attorneys reluctant to accept these cases for collection for the practical reason that they were considered impossible to collect.

The U.S. Attorney in Arizona is against the arbitrary assessment of penalties on aircraft violations involving narcotics smugglers, especially when there is not reasonable prospect of collection due to incarceration, lack of assets, etc.

FAA REGULATIONS--LITTLE EFFECT ON AIR DRUG SMUGGLERS

FAA has two regulations to penalize pilots involved in drug-related offenses. FAA can suspend or revoke the pilot's certificate of anyone who knowingly carries drugs in an aircraft, a violation of Federal Aviation Regulation (FAR) 91.12. The FAA can also suspend or revoke the pilot's certificate of anyone convicted of violating any Federal or State narcotics statute under FAR 61.15. Without a valid certificate, an air smuggler is prohibited from piloting any aircraft, rented or othewise. FAA can also move against suspected air smugglers for safety violations, such as flying without lights, carrying fuel in the cabin area, or flying too low. FAA's primary reason for taking any of these actions is to improve air safety. The FAA Western Regional Counsel told us there are no criminal penalties for FAR violations, only civil penalties with a maximum fine of $1,000 per violation.

FAA has considerable latitude in administering FAR. FAA officials stated that while revocation of a certificate is "permanent," it can be appealed after a waiting period of 1 year. FAA has the authority to waive the 1-year waiting period. Appeals and reinstatement are common. FAA officials informed us that normally a pilot whose certificate has been revoked will reapply for certification (appeal) at the end of the waiting period, and proceed to obtain certification. If his certification was merely suspended, he does not have to reapply.

FAA relies on DEA to furnish names of convicted pilots before it initiates revocation proceedings. FAA Headquarters officials told us that they do not have the investigative resources to examine each allegation of drug activity prior to conviction. Accordingly, FAA revocation procedures normally require a conviction before a certificate is suspended or revoked.

During the 21-month period ended September 1976, FAA Western and Southwest Regions took action in 82 cases for drug offense under FARs 91.12 and 61.15. Action completed during this period resulted in FAA revoking 31 and suspending 11 pilot certifications. Additional cases were pending but action had not been taken.

Our analysis of 43 drug interdiction cases made by the San Diego and Tucson ASBs during 1975 showed that FAA's Western Region often does not suspend or revoke the pilot's certificate of convicted narcotics violators. There were no instances of suspension or revocation for pilots knowingly carrying drugs in their aircraft. In FAA's Southwest Region we did find one case where FAR 91.12 was used to suspend an airman's certificate.

In 10, or 23 percent, of the Tucson and San Diego ASB cases, DEA did not inform FAA of the violation. Of the remaining 33 cases, only 15 reached the Regional Counsel's office, where revocation actions are initiated. No action was taken on four of these cases. Of the remainder, FAA revoked six and suspended one. Action remained pending on four cases as of December 1976.

We identified several other factors which explain why the FAA Western Region seldom took action against the drug smugglers:

--FAA was not carrying out existing procedures to insure that reported violations are investigated and forwarded to the Regional Counsel in a timely manner.

--FAA is reluctant to use FAR 91.12, which does not require a conviction, because it could be difficult to prove that the pilot knew drugs were in the aircraft.

--Interpretations made by Administrative Law Judges of the National Transportation Safety Board discourage the Regional Counsel from taking some actions. In cases where the pilot appeals revocation or suspension, the Regional Counsel believes that the judges give the appellant the extreme benefit of doubt.

Because FAA seldom takes action against drug smugglers, applicable regulations have little deterrent effect. The following case illustrates the problems within the existing system:

An FAA-certified pilot was arrested on May 31, 1974, for smuggling 400 pounds of marihuana. On January 23, 1975, the pilot pled guilty to possession of a controlled substance for sale and the smuggling charge was dismissed. On March 12, 1975, the pilot received a sentence of 10 days in jail, 3 years probation, and a $1,000 fine. On November 4, 1975, the pilot's certificate was revoked because of the May 1974 arrest. On November 14, 1975, he again was arrested for smuggling marihuana by aircraft. On December 3, 1975, FAA, unaware of the November 1975 arrest, held a revocation appeal hearing based upon the May 1974 arrest. The revocation was reduced to a 6-month suspension retroactive to November 10, 1975. Therefore, the pilot did not possess a valid certificate at the time of the second arrest.

On March 1, 1976, the Regional Office was informed about the November 1975 arrest. On March 11, 1976, the Regional Office requested a district office to investigate the second violation. We inquired on November 3, 1976, about the status of the pilot's certificate. We were informed that the district office was not aware of the Region's request and thus the incident had not been investigated. The Chief of the Investigation Branch informed us that probably nothing could be done regarding the November 1975 arrest because a year had passed and it was the policy of the Regional Counsel not to proceed on old cases.

Officials cited their lack of criminal sanctions as another reason for the ineffectiveness of FAA regulations against drug smugglers or any other violators.

IMPROVED BORDER NARCOTICS CONTROL NOT LIKELY WITHOUT INCREASED UNITED STATES-MEXICO COOPERATION

The capability of the United States to deal with the flow of drugs crossing the Southwest border depends not only on an organized coordinated effort among U.S. law enforcement agencies and the judicial system, but also upon the cooperation of the Mexican Government in disrupting the production and shipment of illicit drugs. The United States international narcotics control program relies heavily upon the Government of Mexico.

During our visit to the U.S. Mission in Mexico City in June 1976, we discussed the status of narcotics enforcement activities with DEA regional office personnel and U.S. Mission officials. U.S. officials in Mexico see the opium poppy eradication program as the top priority activity there because it eliminates heroin at the source. Other enforcement action and intelligence-gathering are considered secondary to the eradication program.

Our report, "Opium Eradication Efforts in Mexico: Cautious Optimism Advised," points out that progress has been made by the Mexican Govenment in attacking the source of heroin--the opium poppy. This program has resulted, in part, from substantial U.S. funding; however, we cautioned that future success would require continuing improvements and commitment by the Mexican Government to upgrade its narcotics control capabilities.

Besides the increased attention given to the eradication program within Mexico, enforcement and information gathering capabilities must also be improved if narcotics control efforts are to have an overall impact within Mexico and at the Southwest border. The need for tactical and operational intelligence on narcotics traffickers, as well as the narcotics distribution system, is particularly acute in view of the reality that without it our border resources are largely wasted. DEA agents stationed in Mexico are becoming more dependent on their Mexican counterparts to carry out investigative and intelligence-gathering operations. This has resulted from two factors--the Government of Mexico's reluctance to increase the presence of U.S. agents operating within Mexico, particularly those associated with drug intelligence-gathering, and the restrictions placed on DEA agents by the International Security Assistance and Arms Export Act of 1976 (P.L. 94-329) which prevents DEA from directly participating in any drug arrest action. Any effective activity within Mexico must therefore rely on increased Mexican commitment and cooperation. The problem of too little intelligence data from Mexico to assist border enforcement agencies was discussed in chapter 4, beginning on page 18.

Mexico has a 500-person Federal police force which is charged with enforcing all Federal statutes. Since 1974 when we issued a report [1] on this subject, Mexico has expanded the size and improved the MFJP enforcement capabilities. According to the Drug Enforcement Administration, MFJP is being improved by new recruits who are now required to have 2 years of college training and have attended and graduated from a formal training academy established by the Attorney General. The MFJP's first formal drug enforcement training class was completed at the institute in the fall of 1975. Four additional classes had been completed by the time of our visit in June 1976.

The total staffpower devoted to enforcement activities is not currently sufficient or experienced enough to deal with the magnitude of the narcotics problem in Mexico. Over half of the MFJP officers are committed to the year-round eradication campaign, leaving less than 250 officers to enforce all other Federal laws throughout Mexico. Effective law enforcement is still inhibited by the corrupting influence wealthy traffickers have held. Attempts to overcome poor working conditions (e.g., lack of equipment, below subsistence income, and poor job security) have had some success.

CONCLUSIONS

Criminal prosection and enforcement of existing administrative sanctions are limited as an effective deterrent because of the large profits involved, the nature of the violators being apprehended, and the ease with which penalties can be avoided by the experienced smuggler.

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[1] "Effort to Stop Narcotics and Dangerous Drugs Coming From and Through Mexico and Central American," GGD-75-44, Dec. 31, 1974.

Expansion of the jurisdiction of Federal magistrates could enable them to handle minor narcotics cases now required to go before a U.S. District Judge. This would ease the overburdened District Court system with about the same deterrent effect.

Administrative penalties could be used more effectively by the FAA against pilots smuggling illicit drugs by aircraft. While FAA actions are not the primary penalties to discourage drug smugglers, the revocation of a pilot's certificate is a viable tool for crippling or inconveniencing the operation of an illicit trafficker. FAA's enforcement of regulations could be strengthened if criminal sanctions were established for pilots who fly without a valid certificate.

The U.S. Mission and the Mexican Government have intensified the eradication effort in Mexico to reduce the amount of Mexican heroin available for smuggling into the United States, but with little attention given to the intelligence needs of border enforcement agencies. The U.S. Mission needs to design a program for developing information to assist in intercepting smugglers at the border (ch. 4). While certain steps can be taken, such as helping Mexico develop its capability to provide actionable intelligence, the Mexican Government is the key to any real success. Improved effectiveness in stopping smugglers at the border is dependent upon the priority and commitment of the Mexican Government to supporting law enforcement activities on both sides of the border.

RECOMMENDATIONS TO AGENCIES

The Administrator of DEA should assure that FAA is advised of all arrested persons who are pilots.

The Secretary of Transportation should direct the FAA Administrator to:

--Establish an effective system to insure that reported violations are investigated and adjudicated in a timely manner.

--Clarify use of existing regulations to insure that all avaialble sanctions are considered for use in deterring drug smugglers.

--Rigorously apply administrative sanctions against air smugglers.

The Commissioner of Customs should evaluate the use being made of administrative fines and penalties and develop guidelines to restrict their use to cases where there is a reasonable possibility of collecting the penalty.

The Secretary of State should require the U.S. Mission in Mexico to expand the narcotics control action plan to include program goals and specific objectives for supporting border interdiction efforts. Emphasis should be placed on encouraging the Mexican Attorney General to (1) develop information which could be of use in Mexican as well as U.S. interdiction efforts and (2) strengthen enforcement by Mexican forces along the border with full-time drug enforcement officers.

RECOMMENDATIONS TO THE CONGRESS

The Congress can help by legislating the following:

--Expand the magistrates' jurisdiction under the Federal Magistrates Act to encompass most misdemeanors, e.g., minor drug offenses, especially marihuana.

--Appropriate funds for additional United States magistrates to be appointed in the Southwest border area.

--Establish criminal penalties for pilots who fly without a valid certificate.

CHAPTER 6

AGENCY COMMENTS AND OUR EVALUATION

The OMB the Departments of Justice, Treasury, and State generally agreed with our findings and recommendations. The various departments and OMB were supportive of the conclusion that the absence of a Federal Government integrated strategy and an overall border control plan has resulted in overlapping, duplication, and poorly coordinated enforcement activities. Their comments are discussed below. The Department of Transportation's comments are included as appendix VII.

OFFICE OF MANAGEMENT AND BUDGET

OMB informed us (see app. III) that a study of border management and interdiction conducted under the direction of ODAP was near completion. OMB suggested we consider adjusting our recommendation that an integrated strategy and comprehensive operating plan for border control which considers various alternatives for managing border operations be developed to reflect this action.

The ODAP report issued on September 7, 1977, identified as the major obstacles to border control the lack of coordinated border management and overlap and duplication of effort. ODAP's report proposes a wide range of alternatives consistent with the above recommendation and recommends transitional actions that should be taken to improve border management. This report points out the need to establish an overview mechanism to develop a long range border management plan and policies to insure border operations are supportive of all Federal programs. Although we believe this effort is a significant first step in carrying out our recommendations, the Congress and the administration must now resolve the most difficult questions of revising the management structure, reorganizing border organizations, and developing an overall border control plan to resolve the problems discussed in our report. Until these actions are completed, we do not believe the intent of this recommendation will be met.

OMB agrees with our observation that border interdiction alone will not solve the illegal alien problem, and pointed out that the President submitted a proposal to the Congress on August 4, 1977, dealing with undocumented workers. This proposal would:

--Make unlawful the hiring of undocumented aliens with enforcement by the Justice Department against those employers who engage in a "pattern or practice" of such hiring.

- --Increase significantly the enforcement of the Fair Labor Standards Act and the Federal Farm Labor Contractor Registration Act, targeted to areas where heavy undocumented alien hirings occur.
- --Substantially increase the resources available to control the Southern border and other entry points.
- --Promote continued cooperation with the governments which are major sources of undocumented aliens.

The proposal is viewed by the President as an interim step. He has directed the Secretary of State, the Attorney General, and the Secretary of Labor to begin a comprehensive interagency study of existing immigration laws and policies. These actions are consistent with our recommendation that the Congress and the administration work together to totally reassess U.S. immigration policy presented in our October 1976 report titled, "Immigration--Need To Reassess U.S. Policy" (GGD-76-101).

DEPARTMENT OF JUSTICE

Justice said our findings and recommendations were compatible with its current philosophy. (See app. IV.) Justice supported our recommendation to the Congress to expand the jurisdiction of Federal magistrates and appropriate funds for appointing additional magistrates to the Southwest area. Justice also believes our recommendation to establish criminal penalties for pilots who fly without a valid certificate has merit, although it believes that sufficient legal means already exist to prosecute them.

Justice stated that the report concentrates heavily on drug interdiction efforts, with only passing references to all other Federal border responsibilities. Justice cited the following examples:

- --The discussion on ports-of-entry resources ends with the statement that "While the Customs force continues to decrease in size, the workload increases." No mention is made of INS inspection manpower requirements and workload. Obviously, this omission contributes to an incomplete view of border operation problems.
- --The section of the report which discusses detection aids concentrates on drug interdiction and states that "Judgement of the inspector is a critical ingredient in drug interdiction." This is an accurate statement and applies equally to the detection of

mala fide applicants for admission. However, no section of the report deals with the skills required to meet border threats other than drugs.

--The discussion regarding the overlapping roles of the Border Patrol and Customs Patrol between ports-of-entry measures their achievements only in terms of drug interdiction. No mention is made of the superior numerical presence and equipment support of the Border Patrol.

Consequently, in Justice's opinion, the report does not provide the comprehensiveness of border activities necessary to develop a truly "integrated strategy or an overall border control plan" which the report says is needed. Out report was not intended to accomplish this goal. Out intent was to complement and expand the areas not covered in the numerous previous studies dealing with border enforcement cited in appendix I. In our opinion, these reports along with this report. when considered in total, support the need for an integrated strategy and an overall border control plan. We have recommended that OMB, in conjunction with ODAP and the affected agencies, perform the comprehensive study of border activities to develop an integrated strategy and comprehensive plan for border control. Most Departments involved recognized the need for this.

Our report commented on the fact that DEA supplies little actionable intelligence necessary for successful operations along the borders. Justice informed us that DEA recognizes the need to integrate its investigative and control strategy with the strategies of INS and Customs. Justice stated that, in addition to border interdiction intelligence being supplied by EPIC, a new intelligence-collection school for special agents has been initiated and Customs patrol officers are now being assigned to posts of duty at DEA regional offices for coordination purposes. Justice stated that our report was critical of intelligence-gathering and exchange in Mexico by Mexican and U.S. agencies. Justice informed us that, since our visit to DEA's Regional Intelligence Office in Mexico City, the staff has been expanded from one agent/supervisor and one collection agent to nine professional personnel and that the Regional Office has taken steps to strengthen and broaden DEA's and Mexico's collection of border interdiction intelligence.

Regarding our comments on the inability of the Border Patrol and Customs Patrol to communicate with each other, Justice said a more accurate presentation would state that

> "* * * in most areas, the radio base stations of both patrols are equipped with commercial scanners which allow each patrol base station to monitor the frequencies of the other and immediately retransmit messages to mobile units."

Our work and that of the ODAP task force indicates that the use of scanners is not nearly as extensive as these comments indicate.

DEPARTMENT OF THE TREASURY

The Department of the Treasury stated (see app. V) that our report correctly singles out the absence of an integrated strategy or an overall border control plan which has resulted in overlapping, duplication, and poorly coordinated enforcement activities. It pointed out that an overall review of border management, being performed by the various agencies involved in border management under the direction of the Office of Drug Abuse Policy, should provide a basis for improving the effectiveness of border enforcement activities. The Department further pointed out that it recently concluded a U.S.-Mexican Customs-to-Customs agreement designed to increase cooperation between the Customs Service and the exchange of information in suppression of Customs' offenses, including the smuggling of narcotics, guns, and other contraband.

Treasury stated that our comment that one-third of the Customs research and development funds are used for drug detection systems may give a distorted picture of the relative importance placed on drug detection aids at ports. It said that detection devices used between ports are extremely expensive and funding levels do not indicate proportionate priorities. Treasury listed current and planned research related to port interdiction. Although we agree that expenditures are not the sole indicator of proportionate priorities, in our opinion, it is a significant indicator. This is especially true if one is to determine where the most significant results will be achieved for dollars expended.

In commenting on our observation concerning the placement of sensors, Treasury maintains that INS sensor fields are generally located near ports-of-entry, whereas Customs sensor fields are deployed much further away from ports. This was not the case at the locations visited. Both INS and Customs officials stated that despite agreements to this effect, traffic patterns result in sensor as well as patrol activity of both agencies being located in close proximity to each other, and neither of the patrol forces know exactly where the other's sensors are located. We did not attempt to make a detailed analysis of sensor locations along the entire border.

The Treasury commented that INS and Customs did not have similar interdiction strategies as the report implies. Our report is not an attempt to present the strategies of the agencies but their operating mode. We found that in attempting to achieve the most significant results, in the absence of tactical intelligence, each agency's patrol generally concentrated on the same high-volume crossing areas.

The Treasury questioned whether heroin seizures by the air program is a significant measure of its usefulness and effectiveness. The Treasury believes that such a view overlooks the importance of the air program in the Customs overall border interdiction effort as well as the inadequacy of intelligence from all sources, on how the bulk of heroin actually enters the country.

The intent of our report was to give an indication of the measurable benefit being achieved at the border. While it is not possible to measure the deterrent effect, the continual readily available supply of drugs in the United States indicates it has little if any significant effect on reducing the supply of heroin and other drugs.

We agree with the Treasury that there is a need for a balanced border interdiction approach. The primary point of our report is that without an integrated strategy or overall border control plan, overlapping agency jurisdictions make an efficient and effective interdiction approach difficult, if not impossible. Our report is intended to show that the use of aircraft along the border was ineffective. It presents the information that should be used in determining the need and cost effectiveness of air operations.

DEPARTMENT OF STATE

The Department of State informed us (see app. VI) that it agrees with the recommendations contained in this report and supports the thesis that an integrated strategy for border control is needed. The Department agreed with the specific recommendation to the Secretary of State that the U.S. Mission in Mexico be required to expand the narcotics control action plan to include program goals and specific objectives for supporting border interdiction efforts.

The State Department commented that the increased commitment of the new Mexican Administration has resulted in greater cooperation and exchange of intelligence data. It outlined joint planning efforts with the Mexican Government and improvements in intelligence operations that have taken place since completion of our audit work in Mexico. These joint planning efforts are expected to increase Mexican effectiveness in controlling narcotics along the United States-Mexican border.

OBSERVATIONS AND SUGGESTIONS FOR IMPROVING

BORDER LAW ENFORCEMENT

Date of Report	Originator	Title	Principal Findings, Conclusions, Recommendations
December 1972	General Accounting Office	Heroin Being Smuggled Into New York City Successfully B-164031(2)	Conflicts between Customs and BNDD arose about the question of jurisdiction over the control of narcotics smuggling. The operating level cooperation and coordination called for in guidelines approved by the President to settle the jurisdictional dispute have not been fully realized. GAO pointed out emphasis should be placed on devising methods of improving coordination in the day-to-day, case-by-case operations of local offices of both agencies.
May 1973	General Accounting Office	A Single Agency Needed to Manage Port-of-Entry Inspections -- Particularly at U.S. Airports B-114898	Fragmented approach to inspections did not allow a more efficient and effective inspection system to develop. Four Federal agencies were engaged in inspecting entrants to the United States: (1) Public Health Service, Department of Health, Education, and Welfare; (2) Immigration and Naturalization Service, Department of Justice; (3) Bureau of Customs, Department of the Treasury; and (4) Animal and Plant Health Inspection Service, Department of Agriculture. Benefits of single-agency management included: development of a single inspection system; uniform administrative policies and procedures; improved scheduling, planning, and coordination; elimination of duplication; and reductions in space and staff requirements and inspection time. GAO recommended that the Director, Office of Management and Budget, in cooperation with the Attorney General and the Secretaries of Health, Education, and Welfare; Agriculture; and the Treasury should implement single-agency management of port-of-entry inspections.
October 1972 through December 1973	MITRE Corporation	System Concept for Drug Interception: United States/Mexican Border Narcotics Interdiction Technology Research and Development Program	In a series of reports the MITRE Corporation defined and evaluated technical and procedural concepts which would significantly improve the capability of the U.S. to stop the flow of illegal drugs entering the U.S. from Mexico. These reports addressed the problems of low-flying aircraft crossing anywhere over

Date of Report	Originator	Title	Principal Findings, Conclusions, Recommendations
			the border, and ground vehicles and people crossing the border between and through ports-of-entry. Means of detecting and intercepting this traffic were identified, and technical feasibility, cost and effectiveness of the preferred concepts were estimated. MITRE concluded that the technology was available to support an effective detection and intercept system, and that procedural changes will considerably simplify the system complexity with minimum impact on the legal international traveler. The proposed aproach including the design and implementation of an intercept system for the Mexican border was estimated to cost about $300 million and take 10 years to implement.
June 1974	Office of Management and Budget	Identical letters, dated June 5, 1974, to the Attorney General and the Secretary of the Treasury	The Director, OMB informed the Attorney General and the Secretary of the Treasury of OMB's conclusions in its analysis of Federal law enforcement along the Southwest border. This analysis pointed out continuing competition, conflicts and overlaps in functions, and duplication of expenses in multiagency operations. OMB outlined a strategy for principal border agencies together with necessary implementing steps. The "management strategy" OMB proposed was that a single agency should be responsible for each element of routine border enforcement: ports, between ports, air and sea. OMB believed the single-agency approach represented the only feasible approach to ensure an adequate line of enforcement targeted on priorities of drugs, illegal aliens, and general contraband. OMB felt that hard narcotics (heroin) was being smuggled through ports-of-entry and marihuana between ports-of-entry.
December 1974	Committee on Government Operations	Law Enforcement On The Southwest Border (Problems Of Coordination Between Immigration and Naturalization Service And Customs Service) House Report No. 93-16 0	The problems of enforcement duplication and competition along the Mexican border, as outlined in the OMB study and suggested plans of action, were studied by the House's Legislation and Military Operations Subcommittee, Committee on Government Operations. The OMB plan was not approved by this Committee. The Committee felt the plan was not supported by

Date of Report	Originator	Title	Principal Findings, Conclusions, Recommendations
			a convincing analysis and that more work was needed before a solution could be found to the border situation.
September 1975	Domestic Council Drug Abuse Task Force	White Paper on Drug Abuse	The Task Force pointed out that "Under Reorganization Plan 2 (of 1973), a distinction is drawn between investigative functions and interdiction functions with respect to narcotics enforcement efforts... Unfortunately, the distinction between interdiction and investigation was not precise in the legislation. This ambiguity has led to jurisdictional disputes among enforcement agencies, and the resulting interagency rivalry and lack of coordination have hampered supply reduction efforts...." The Task Force recommended that the President direct the Attorney General and the Secretary of the Treasury"... to settle jurisdictional disputes between DEA and Customs by December 31, 1975, or to report their recommendations for resolution of the matter to the President on that date." This Paper also contained many other recommendations for improving Federal drug abuse programs including, in particular a recommendation that a program be developed for more effective border control, and that Customs, DEA and the U.S. Border Patrol vastly improve their coordination of activities along the border, including joint task force operations. The task force also recommended that CCINC be instructed to discuss cooperative programs with the Government of Mexico.
December 1975	General Accounting Office	Federal Drug Enforcement: Strong Guidance Needed (GGD-76-32)	Federal drug law enforcement efforts have for years suffered from problems of fragmented organization and resulting interagency conflicts. Efforts to resolve the problem have not been successful. GAO endorsed the recommendation in the Domestic Council's September 1975 report calling for a settlement of the jurisdictional disputes between DEA and Customs. GAO felt, however, especially in light of the failure of

Date of Report	Originator	Title	Principal Findings, Conclusions, Recommendations
			a prior agreement brought about by a Presidential directive, that establishing such agreements will not solve the problem. GAO pointed out that it was questionable whether such agreements will ever work without a clear delegation of authority to someone acting on behalf of the President to monitor adherence to guidelines and tell agencies what is expected of them.
September 1975	Domestic Council Drug Abuse Task Force	Report on the Southern Border (SECRET)	A report for the President, containing numerous recommendations for improving interdiction, domestic enforcement and the program within Mexico to control trafficking along the Southern border (U.S. - Mexico border and the Gulf Coast).
October 1976	General Accounting Office	Immigration--Need To Reassess U.S. Policy (GGD-76-101)	U.S. Immigration problems as discussed in this summary of six prior GAO reports are severe. This summary deals with matters ranging from an inability to control large-scale illegal entry to an inequity in the existing immigration law which unfairly allows illegal entrants to later obtain immigratin benefits while bona fide immigrants are denied early admission. GAO mentioned pending legislation which contained a provision to deter employers from hiring illegal aliens by making it unlawful to knowingly employ them. Since this legislation, if enacted and enforced, would remove a major economic incentive which attracts illegal aliens, GAO recommended that the Congress favorably consider these provisions. The seriousness of our immigration problems dictates a need for early correction. GAO also recommended that the Congress work with the Administration to totally reassess U.S. immigration policy.

Date of Report	Originator	Title	Principal Findings, Conclusions, Recommendations
December 1976	Domestic Council Committee On Illegal Aliens	Preliminary Report - Domestic Council Committee on Illegal Aliens	A comprehensive discussion of the policy issues raised by the illegal alien problem contained both immediate and long-term recommendations including, in particular, that U.S. enforcement policy continue to emphasize prevention of illegal entry rather than apprehension of illegal aliens after settlement. The Committee also recommended that INS continue to place emphasis on evaluation techniques, process studies, and simulation models that offer the prospect of improving the current deployment of resources. In striving to achieve this goal, the Committee recommended that INS should take full advantage of the wide range of technical services that are available within the Federal Government. To illustrate, the Committee pointed out that "some joint automatic data processing and telecommunication development and sharing between INS, Customs Service and DEA has a wide range of potential benefits. Some INS and Customs personnel at field offices around the country are frequently co-located; the use of remote ADP terminals and the development of a common communication network could result in significant cost savings; it appears feasible that INS' alien documentation, identification and telecommunication system could use the existing Customs Service's ADP and communication network."

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BY THE COMPTROLLER GENERAL

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Report To The Congress

OF THE UNITED STATES

Gains Made In Controlling Illegal Drugs, Yet The Drug Trade Flourishes

This report assesses the Federal Government's drug enforcement and supply control efforts during the last 10 years, including information contained in a series of GAO reports issued on drug control and various related topics during this time.

Federal agencies have fought hard to reduce the adverse impact of illegal drugs on American society. While current indicators suggest some positive results in reducing drug-related deaths and injuries and decreasing heroin supplies, the drug trade continues to flourish, and the problem persists for reasons tied to the enormous supply of and demand for drugs.

Effective law enforcement, crop eradication, and other controls will cause shifts and temporary disruptions in trafficking and use patterns, and buy time to enable the Nation to concentrate on long-term solutions. But if the United States is to make greater inroads, it must take a much tougher and consistent stance. The executive and legislative branches must form a partnership to agree upon and vigorously carry out a consistent national policy on drug abuse.

UNITED STATES GENERAL ACCOUNTING OFFICE

GGD-80-4
OCTOBER 25, 1979

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-175425

To the President of the Senate and the
Speaker of the House of Representatives

The United States drug abuse problem has been a matter of national concern for decades, and, in recent years, the illegal use of drugs has been increasing in many countries throughout the world. The huge supply and demand for illegal drugs continues to frustrate attempts to contain the problem.

This report presents an assessment of the extent and nature of drug abuse in the United States, focuses on the Federal drug supply reduction strategy, and identifies a number of long-standing problems hampering the effectiveness of the Government's drug law enforcement and supply reduction efforts. The report contains recommendations for improving efforts under the present Federal strategy and proposes that the executive and legislative branches form a partnership to agree upon and vigorously implement a consistent national policy on drug abuse. The report also points out that the drug abuse problem is too much for the United States to overcome alone and recommends the establishment of a consortium of victim countries to develop a global plan of action.

We are sending copies of this report today to the Director, Office of Management and Budget; Director, Administrative Office of the U.S. Courts; Director, Central Intelligence Agency; the Secretaries of Health, Education, and Welfare, Transportation, Treasury, and State; and the Attorney General of the United States.

Elmer B. Staats
Comptroller General
of the United States

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

GAINS MADE IN CONTROLLING ILLEGAL DRUGS, YET THE DRUG TRADE FLOURISHES

DIGEST

Federal agencies have fought hard to reduce the adverse impact of illegal drugs, primarily heroin and dangerous drugs, on American society. These efforts have shown some positive results as measured by decreased drug-related deaths and injuries, and reduced availability of some illegal drugs.

Nevertheless, drug trafficking and abuse still flourish despite several decades of U.S. efforts both here and abroad. The gains made are fragile, requiring constant vigilance, as

--source countries move quickly to fill temporary drug shortages,

--trafficking patterns shift, and

--the types of drugs consumed readily change.

This report assesses the Federal Government's drug enforcement and supply control efforts during the last 10 years, including information contained in a series of GAO reports issued on drug control and various related topics during this time. (See pp. 161 to 164.)

WHAT SUCCESSES HAVE BEEN ACHIEVED?

Notable successes have been attained in carrying out the Federal supply reduction strategy, as a result of actions taken in the United States and overseas to immobilize major trafficking networks and control the production of illicit drugs. (See pp. 15 to 21.)

--Turkish restrictions on poppy cultivation and increased United States and French enforcement disrupted the French-Turkish heroin connection in the early 1970s and produced a dramatic shortage of heroin in the United States.

--Joint U.S.-Mexico efforts in crop eradication and narcotics enforcement, assisted by a drought,

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are decreasing Mexico's share of the U.S. illicit heroin market. Street-level heroin currently has the lowest purity and highest price since 1973, and National Institute of Drug Abuse statistics show that heroin-related deaths have been declining.

--Enforcement activities in the United States and abroad have caused significant drug removals and increased clandestine laboratory seizures.

--Emphasis on conspiracy investigations has led to many high-level drug traffickers being convicted on conspiracy charges, some receiving substantial prison sentences.

--Other countries have increased their efforts to reduce supply on their own and through United Nations and United States programs.

--The amount of diversion of legal drugs at the wholesale and manufacturing levels has declined sharply in recent years.

Current indicators suggest that there is a major shortage of heroin in the United States, a significant accomplishment against the Nation's number one drug enforcement priority. However, this and other such hard-won successes are short-lived. Growing areas, shipment routes, trafficking organizations, and even the types of drugs abused all readily change and adapt to new conditions.

For example, the heroin shortage created by the breaking of the French Connection was temporary. Mexico emerged as the next principal supplier of heroin to the United States. Today's concern is that as Mexican heroin availability declines, heroin from Southeast Asia and the Middle East will fill the gap. Some also fear that use of dangerous synthetic drugs will continue to increase as heroin users find it difficult to obtain heroin. (See pp. 19 to 21.)

WHY DOES THE PROBLEM PERSIST?

THE ENORMOUS SUPPLY OF AND DEMAND FOR DRUGS has created a multibillion dollar worldwide business involving millions of Americans. The National Institute on Drug Abuse has estimated that there are:

--1.7 million persons who have used heroin, with 453,000 daily users.

--13 million persons who have used stimulants such as amphetamines.

--6.9 million persons who have used PCP at least once.

--10 million who have used cocaine.

--43 million people who have tried marijuana at least once.

The marijuana market alone consumes between 60,000 and 91,000 pounds per day, resulting in an outlay of $13 billion to $21 billion per year. (See pp. 21 to 25.)

THE SOCIAL, ECONOMIC, AND POLITICAL REALITIES OF DRUG-GROWING COUNTRIES make it difficult to prevent cultivation of illicit crops and stop trafficking at the source. Most producing nations are poor, underdeveloped, struggling countries presenting problems that are too complex for a predominantly law enforcement approach to be effective in reducing drug supplies. Suppression efforts have been hindered by long-standing and socially accepted traditions of smuggling and corruption. As seen from several pilot projects, the other approach of substituting legitimate crops for drugs requires massive economic development that is both costly and long-term. To date, the developed countries of the world have been unwilling to fund such high-risk ventures. (See pp. 29 to 31, and 44 to 55.)

THE ENORMOUS PROFITS OF DRUG TRAFFICKING attract an ample number of entrepreneurs who see opportunities that far outweigh those offered by legitimate businesses. Payments by abusers and traffickers for heroin, cocaine, marijuana, and hashish in the United States are estimated to be on the order of $35 billion to $51 billion annually. Drug trafficking in the U.S. today appeals to people from all walks of life, including doctors, lawyers, accountants, businessmen, and entertainers. (See pp. 31 and 32.)

IT IS EASY TO ENTER AND DISTRIBUTE DRUGS in the United States. While nobody knows for sure how much illicit drugs come into the country, it has been estimated that law enforcement agencies seize only 5 to 10 percent of all illicit drugs available. (See pp. 31 and 32.)

ACTIONS NEEDED TO FULLY SUPPORT FEDERAL DRUG STRATEGY IMPLEMENTATION HAVE NOT MATERIALIZED. Differing views among Government agencies, as well as the public, make it difficult to attain the necessary legislative, executive, and judicial actions. Drug supply reduction efforts have yet to achieve a well-integrated, balanced, and coordinated approach. (See pp. 32 to 34.)

WHAT CAN WE DO ABOUT THE PROBLEM?

The United States must take a much tougher and consistent stance to make real gains in reducing the availability of illicit drugs. The following long-standing problems must be resolved:

--Organizational difficulties between Federal agencies diluting law enforcement efforts at borders

--Large-scale drug traffickers, in terms of immobilization from trafficking, being incarcerated for short periods of time while their ill-gotten gains remain intact.

--Unclear Federal, State, and local enforcement roles hampering attacks on drug traffickers.

--Inconsistent and sometimes conflicting drug policies resulting in no clear overall direction.

--Businesses and individuals promoting the use of drugs through the sale of drug-oriented paraphernalia and magazines.

--Governments of developed countries and international financial institutions providing little or no support for controlling illicit drug production.

The executive and legislative branches must form a partnership to agree upon and affirm a national policy for dealing with drug abuse and support necessary legislation. A joint commission could be formed to accomplish this and to recommend a course of action to promote vigorous implementation of the agreed policy. (See pp. 34 and 35.)

BORDER MANAGEMENT PROBLEMS NEED TO BE RESOLVED

Although the U.S. border provides opportunities for interdicting illicit drugs, the availability of drugs attests to the fact that the border has not been a serious impediment to illegal entry. Large amounts of heroin and marijuana have crossed the land border with Mexico. More recently, our Southeastern States have been flooded with marijuana and cocaine shipped by air and sea from South America. (See pp. 65 to 82.)

GAO recommended in its 1977 report on the Southwest border (GGD-78-17) that the Congress require the executive branch to develop a comprehensive border control plan. A border management agency should be established to overcome organizational difficulties and better respond to the problems created by drug smuggling. (See pp. 69 and 70.)

OPPORTUNITIES TO OVERCOME OBSTACLES IN IMMOBILIZING MAJOR TRAFFICKERS

Federal efforts to reduce drug trafficking through attempts to immobilize major traffickers have fallen short of expectations. Even though numerous high-level traffickers have been convicted their organizations often continue to operate and maintain distribution capacity. A concerted effort among numerous Federal agencies to incarcerate major drug dealers for long periods and take away their financial resources has not materialized to the extent necessary. (See pp. 83 to 112.)

For recommendations to the Congress and Federal agencies that will strengthen prosecution of drug traffickers and dealers and help to better attack the tremendous financial gains from trafficking. (See pages 111 and 112.)

CHANGES IN BAIL AND SENTENCING COULD STRENGTHEN IMMOBILIZATION EFFORTS

Bail and sentencing practices in Federal courts throughout the country have diluted the effect of drug enforcement efforts. Many defendants who are released on bail continue their drug trafficking because Federal law does not allow judges to consider danger to the community a reason for denying bail. Even when convicted, drug traffickers are often not effectively immobilized for long periods because prison sentences are short. (See pp. 113 to 126.)

The Congress should consider modifications to the bail law that take into account both constitutional principles and the means to prevent traffickers from engaging in illegal activities that present a danger to the community. Correcting the sentencing problem is not easy, however; any changes to the criminal justice system must be comprehensive and approached with utmost caution. GAO therefore recommends that the Judicial Conference of the United States assess the effects of judicial discretion, including the sentencing of drug violators. (See p. 126.)

NEED TO CLARIFY FEDERAL, STATE, AND LOCAL ENFORCEMENT ROLES

Increased reliance has been placed on State and local drug enforcement efforts because Federal efforts have focused on leaders of national and international trafficking networks. Even though the Federal Government has developed numerous programs to assist and cooperate with State and local agencies, the mounting of a unified attack has been made virtually impossible by financial, political, and other realities. State and local agencies are allocating fewer resources for drug enforcement, and Federal grants for the same purpose have declined as well. In addition, jurisdictional problems in some regions hinder attempts to fully mobilize the more than 15,000 police agencies in the United States against drug abuse and trafficking. (See pp. 127 to 134.)

In the face of these difficulties, the Attorney General must establish a clear, realistic policy on what can reasonably be expected from State and local governments and what the Federal Government should do to elicit their support. The response of the various levels of government to businesses' and individuals' promoting the use of drugs through the sale of drug-oriented paraphernalia and magazines must also be addressed. (See pp. 134, 21, and 22.)

SOMEONE MUST OVERSEE STRATEGY IMPLEMENTATION

The Congress has long recognized the Federal Government's continuing failure to provide a central mechanism to establish drug policy and be accountable for its effective implementation. Even though the Office of Drug Abuse Policy was established to do this, it was abolished before it had a chance. If any improvement is to be made in coordinating Federal drug control efforts, someone is needed who has a clear delegation of authority from the President to monitor activities and demand corrective actions. This responsibility is currently entrusted to the President's Domestic Policy Staff, and it is too early to tell whether this arrangement will ensure the vigorous implementation of the Federal drug strategy. The presence of a tough and consistent stance will go a long way in demonstrating within the United States and to other countries the strong commitment our Nation is making in combatting the drug abuse problem. (See pp. 10 to 12 and pp. 34 and 35.)

DRUG PROBLEM REQUIRES WORLDWIDE COMMITMENT

The United States has been the prime force in efforts to control illicit drug production, but increased commitment of developed countries is needed if we are ever to have a great impact on the problem. With this reality in mind, GAO recommends that the Secretary of State, with the support of the Congress, promote a world conference and the formation of a consortium of victim countries that would develop a plan of action to fight the global drug problem in a unified way. (See pp. 37 to 65.)

To further develop strong drug control within foreign countries, GAO also recommends that the Secretary of State require the Assistant Secretary for Narcotics Matters to prepare realistic Country Narcotics Actions Plans detailing short and long-term objectives, the means of achieving these goals, and the methods for reviewing progress. For drug-producing areas that encompass several countries, action plans should be prepared on a regional basis.

GAO believes law enforcement and crop eradication will always have a major role in drug control, and can have an even greater impact if GAO's recommendations are implemented. However, there is no guarantee that the supply and use of drugs will be reduced significantly for a long time. Effective enforcement, eradication, and other controls will cause shifts and temporary disruptions in trafficking and drug use patterns and will buy time to enable the Nation to concentrate on long-term solutions. Also, it is generally acknowledged that the demand for drugs would be even greater were it not for law enforcement and supply control efforts.

One question which remains unanswered is: How does this Nation effectively curtail the demand for illicit drugs? In the Nation's search for long-term solutions to the drug abuse problem, it must continue to give high priority to each vital component of the Federal effort: law enforcement and control, treatment and rehabilitation, education and training, and research.

Eight Federal Government organizations having direct supportive responsibilities for activities discussed in this report were asked to comment on the report. The Administrative Office of the U.S.

Courts and the Federal Judicial Center offered no specific comment on GAO's report. The Department of the Treasury, the Central Intelligence Agency, and the Department of Health, Education, and Welfare in their responses did not take issue with any of the report's contents. The Departments of Justice, Transportation, and State, while generally agreeing with GAO's assessment of the drug problem and recommendations to address it, expressed some concern with certain areas in the report they considered misleading, outdated, or disappointing. Chapter 8 contains a discussion of these Departments' concerns and GAO's evaluation. (See pp. 135 to 147.)

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ABBREVIATIONS

ADB	Asian Development Bank
AID	Agency for International Development
BNDD	Bureau of Narcotics and Dangerous Drugs
CCE	Continuing Criminal Enterprise Statute
CCINC	Cabinet Committee on International Narcotics Control
CENTAC	Central Tactical Unit
CIA	Central Intelligence Agency
CSU	Controlled Substances Unit
DAWN	Drug Abuse Warning Network
DEA	Drug Enforcement Administration
FBI	Federal Bureau of Investigation
GAO	General Accounting Office
GOM	Government of Mexico
GUB	Government of Burma
IBRD	International Bank for Reconstruction and Development
INC	International Narcotics Control
INM	Assistant Secretary for International Narcotics Matters
IRS	Internal Revenue Service
NCAP	Narcotics Control Action Plan
NDDS	Narcotic and Dangerous Drug Section
NIDA	National Institute of Drug Abuse
NTP	Narcotics Traffickers Program

NWFP	North-West Frontier Province
ODALE	Office for Drug Abuse and Law Enforcement
ODAP	Office of Drug Abuse Policy
ONNI	Office of National Narcotics Intelligence
RICO	Racketeer Influenced and Corrupt Organizations
SAODAP	Special Action Office for Drug Abuse Prevention
TECS	Treasury Enforcement Communications System
UN	United Nations
UNFDAC	United Nations Fund for Drug Abuse Control

HISTORICAL EVOLUTION OF FEDERAL CONCERN AND EFFORT

The drug problem has been a matter of national concern since the early 1900s when the first narcotics laws were passed. Early efforts to deal with the problem primarily focused on reducing the supply of drugs, first through taxation, then by prohibition and strict legal control. The basic assumption behind this approach was that reducing the supply and availability of drugs would lead to a reduction in their use by encouraging drug-dependent individuals to detoxify, and by keeping drugs out of the hands of users.

By the end of the 1950s there was a general agreement on the part of both the public and legislators that the Federal policy of strict supply reduction by itself was not enough. During the 1960s and early 1970s, as drug abuse increased and spread to new markets, the almost exclusive emphasis on supply reduction and stiff penalties was challenged with growing frequency, leading to increased research and experimentation with treatment for drug abusers.

Beginning in 1968, in response to rising public and political concern about drug abuse and its consequences for society, a variety of changes occurred in an attempt to curtail drug abuse.

Reorganization of the Federal drug law enforcement efforts

As drug abuse was increasing, Federal counter-efforts were found to be highly fragmented and generally ineffective in curtailing drug supplies. To overcome the needless overlap and competition between rival agencies, an effective organization structure was needed.

President Johnson's Reorganization Plan No. 1 of 1968 transferred primary drug investigative responsibility to the Justice Department. Drug law enforcement agencies in the Departments of Treasury and Health, Education, and Welfare were merged to create the Bureau of Narcotics and Dangerous Drugs (BNDD). Treasury's U.S. Customs Service continued to be responsible for drug smuggling investigations.

The formation of this new agency did not solve the problem. Drug law enforcement continued to be characterized as "fragmented" and having "serious operational shortcomings." By 1972, the criminal investigative and intelligence functions were shared by (1) BNDD and the Office for Drug Abuse Law Enforcement (ODALE) in the Department of Justice and (2) the U.S. Customs Service, as part of its antismuggling functions, in the Department of the Treasury. The Office of National Narcotics Intelligence (ONNI), also in the Department of Justice, was responsible for developing and maintaining a national narcotics intelligence system and for serving as a clearinghouse for Federal, State, and local agencies needing access to such intelligence.

To correct these problems, President Nixon's Reorganization Plan No. 2 of 1973 created a single agency approach to drug enforcement. BNDD, ODALE, and ONNI were abolished and all Federal drug enforcement was vested in one new agency, the Drug Enforcement Administration (DEA) in the Department of Justice. The functions and resources of the abolished agencies, together with the investigative and intelligence gathering functions and resources of the Customs Service relating to drug law enforcement, were transferred to DEA. The Customs Service's anti-drug role was limited to interdiction of illicit drugs at U.S. borders and ports of entry. This plan also intended a more significant role for the Federal Bureau of Investigation (FBI) in drug enforcement.

Even after this reorganization problems continued to exist. In our report entitled "Federal Drug Enforcement: Strong Guidance Needed," dated December 18, 1975, we pointed out that the problems of fragmented organizations and interagency conflicts had not been resolved, and we endorsed the recommendation in the Domestic Council's September 1975 report calling for settlement of jurisdictional disputes between DEA and Customs. Our report contained a note of caution that it was questionable whether agreements brought about by Presidential directive will ever work without a clear delegation of authority to someone acting on behalf of the President to monitor adherence to guidelines and tell agencies what is expected of them. The report also pointed out a need to clarify the FBI's role in drug law enforcement.

The effectiveness of the present organization structure in carrying out drug law enforcement operations is discussed in the succeeding chapters of this report.

Reorganization of the Federal drug abuse prevention efforts

Prior to the early 1970s no single office had primary responsibility for coordinating the Federal drug abuse prevention effort.

President Nixon, in a message to the Congress on June 17, 1971, stated that the drug abuse problem had reached the dimension of a "national emergency" and that drug law enforcement must be balanced by a "rational approach" to the reclamation of the drug abuser himself. By Executive Order he created the Special Action Office for Drug Abuse Prevention (SAODAP). SAODAP was given the responsibility of mobilizing, coordinating, and overseeing the resources of the Federal Government to provide treatment and rehabilitation for drug abusers. The Federal drug abuse prevention functions were scattered among as many as 14 agencies engaged in research, prevention, training, education, treatment, and rehabilitation, all aimed at reducing the demand for drugs.

With the enactment of the Drug Abuse Office and Treatment Act of 1972 (Public Law 92-255) Federal policy clearly called for a balanced response to the problem of drug abuse by adding a vigorous prevention and treatment component to the existing law enforcement effort. The act mandated the temporary Special Action Office, and authorized the permanent establishment of NIDA--a separate organization within the Department of Health, Education, and Welfare--to handle research, prevention efforts, treatment, training of professional and paraprofessional personnel, and rehabilitation programs.

The Drug Abuse Office and Treatment Act also created the Strategy Council on Drug Abuse and directed the development, promulgation, and yearly publication of a comprehensive, coordinated, long-term Federal strategy for all drug abuse prevention and drug enforcement functions conducted, sponsored, or supported by the Federal Government. The first Federal Strategy for Drug Abuse and Drug Traffic Prevention prepared by the Strategy Council was published in 1973, and four others followed in 1974, 1975, 1976 and 1979. In addition, the White Paper on Drug Abuse, a report to the President from the Domestic Council Drug Abuse Task Force, was released in 1975.

Reorganization of Federal international narcotics control

Narcotics control considerations have played a fluctuating role in foreign policy since the early 1900s. As the Federal Government moved to a more comprehensive drug abuse and traffic prevention policy, curtailment of drug supplies originating outside the United States received an increasingly higher priority.

In his June 17, 1971, message to the Congress, President Nixon asked for accelerated international cooperation and made narcotics control a top priority foreign policy objective. With the establishment in August 1971 of the Cabinet Committee on International Narcotics Control (CCINC) and the designation of the Secretary of State as Chairman, the President gave the Department of State primary responsibility for developing an intensified network of international cooperation and controls. CCINC was charged with developing a strategy to check the illegal flow of narcotics to the United States and coordinating the efforts undertaken abroad by involved Federal departments and agencies to implement that strategy. While the CCINC was assisted by various subcommittees, the Senior Advisor to the Secretary and Coordinator for International Narcotics Matters chaired the CCINC Working Group and, as the Secretary's designee, was given the authority to coordinate the programs and policies of various U.S. agencies involved in international narcotics control.

U.S. embassy involvement in drug law enforcement increased in many countries as a result of the President's directive establishing the CCINC. To complement the Washington effort, drug control committees were formed in some foreign nations to deal with illicit drug trafficking. The committees were responsible for coordinating and guiding U.S. anti-drug activities in their respective countries. Their first task was to develop plans outlining, among other topics, the (1) host country's influence on the U.S. drug problem, (2) U.S. goals and objectives to counteract this influence, and (3) specific steps to achieve these goals and objectives.

The CCINC met five times in 1971-1973 to determine overall policy and to act on recommendations from the Working Group. CCINC's last meeting was in November 1973, when it met jointly with the President and the Domestic Council Cabinet Committees on Drug Abuse. The Select Committee on Narcotics Abuse and Control noted this in a

1977 report, and said that CCINC's not holding meetings eliminated high level policy direction to the working interagency subcommittees.

The Agency for International Development (AID) was also active in international narcotics control. In 1967, it first authorized funds to provide enforcement and agricultural equipment for poppy control and substitution in Turkey. Between 1971 and 1973, AID, using contingency funds provided by the Foreign Assistance Act, financed, managed, and implemented almost all narcotics assistance. For the first time the Congress specifically appropriated international narcotics control funds for fiscal year 1974, and, in November 1973, the Secretary delegated to the Senior Advisor the responsibility for administering the international narcotics control program funded under Foreign Assistance Act legislation. This program provided technical assistance, equipment, supplies, and training to key producing and trafficking countries. Most of the expenditures, however, were programmed through AID under a State/AID Participating Service Agreement.

The President abolished the CCINC and its subcommittees in March 1977, along with the cabinet committees on drug abuse prevention and drug law enforcement. At the same time, the President activated the Office of Drug Abuse Policy (ODAP) to oversee the formation and implementation of drug abuse policies, and he directed that the Strategy Council be revitalized to serve as the Government-wide advisory committee for this problem area.

During fiscal year 1978, the Department of State assumed those narcotic control functions previously performed by AID. In October 1978, the Congress approved the creation of the Bureau of International Narcotic Matters in the State Department which provides the focus for integrating narcotic control considerations within the general foreign policy of the United States.

FEDERAL GOVERNMENT STRATEGY

Federal strategy to curb the extent and impact of drug abuse in the United States has become multifaceted, recognizing the link between education, treatment, rehabilitation, research, law enforcement, crop eradication, and rural development. It consists of a variety of domestic and international efforts to reduce the supply of and demand for illicit drugs and those legal drugs diverted to illicit use. The strategy points out that successful Government efforts can minimize drug abuse.

The strategy consists of a three-part effort to reduce the negative effects of drug abuse and parallels the authority of the single-purpose, lead agencies in the drug field. In the area of drug abuse prevention, treatment, and rehabilitation, NIDA has overall responsibility. For supply control activities, two agencies are chiefly responsible. DEA is the lead agency for drug law enforcement. The Department of State has responsibility for coordinating international narcotics control efforts and crop substitution efforts, with authority vested in the Assistant Secretary for International Narcotics Matters.

The objective of supply reduction is to reduce drug availability for illicit use by making drugs difficult to obtain, expensive, and risky to possess, sell, or consume. Supply reduction efforts attempt to disrupt the entire chain of production and distribution through substituting and eradicating crops in illegal growing areas abroad, interdicting illicit shipments, arresting and jailing important traffickers, and seizing and confiscating the equipment and fiscal resources needed to operate trafficking networks. The basic assumption is that decreasing availability will result in fewer people experimenting with drugs, fewer experimental users advancing to chronic, intensive use of drugs, and many current drug users abandoning their use and seeking treatment.

Key elements of domestic drug law enforcement are

--interdicting drugs at the border,

--carrying out conspiracy investigations and otherwise targeting Federal enforcement resources at high-level traffickers,

--immobilizing drug traffickers by incarcerating them for long periods and reducing their financial resources,

--controlling the supply of legally manufactured drugs in order to prevent diversion into illegal channels, and

--relying on State and local police for directing efforts against local drug dealers and providing leads to conspiracy cases.

The Federal Government's goal in international drug control programs is to control illicit drugs at their source and thus prevent them from entering the United States. The key activities of the international control program are:

- --gaining the support of other nations and international institutions for drug control,
- --preventing the cultivation of the raw materials in the source countries by means of illicit crop destruction and crop substitution programs, and
- --developing strong drug control organizations within foreign countries.

NEED FOR CENTRALIZED DIRECTION OF DRUG ABUSE AND DRUG TRAFFIC PREVENTION

The success of the Federal strategy and the present organizational structure relies on an effective interaction and a close, complementary relationship among 17 Federal agencies [1], State and local agencies, key foreign governments, and international institutions. Since the early 1970s several reviews of the overall drug control efforts initiated by the executive branch, the Congress, and GAO have pointed to a continuing need for high-level policy and program oversight of the rapidly expanding drug abuse effort.

In July 1976 the Select Committee on Narcotics Abuse and Control was created by the House of Representatives to assist committees having legislative jurisdiction in the area of narcotics abuse and control.

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[1] The Domestic Council's 1975 "White Paper" on drug abuse described 17 Federal entities operating programs in the area of supply and/or demand reduction. Subsequent investigations by staff of the House Select Committee on Narcotics Abuse and Control, however, revealed that there were in fact as many as 100 Federal entities within departments, independent agencies, or executive offices which have operated such programs between 1969 and 1976.

On March 19, 1976, the Congress amended the Drug Abuse Office and Treatment Act of 1972 (Public Law 94-237) to establish ODAP in the Executive Office of the President. One year later, on March 14, 1977, President Carter activated the office. The legislative intent made clear that the Congress was dissatisfied with inconsistent and sometimes conflicting Federal drug abuse policies with no clear overall direction. The Congress wanted a central accountability mechanism to insure a coherent Presidential drug abuse policy throughout the executive branch. ODAP's statutory authority, responsibility, and objectives were to oversee all organizational and policy issues for drug abuse and drug traffic prevention, to coordinate the performance of drug abuse functions by Federal departments and agencies, and to recommend and implement resource and program priorities.

By the end of March 1978, ODAP conducted seven interagency policy reviews and issued reports covering the areas of demand reduction, drug law enforcement, international narcotics control, narcotics intelligence, regulatory and compliance activities, drug abuse in the armed services, and border management and interdiction.

In July 1977, President Carter submitted Reorganization Plan No. 1 to the Congress which included a proposal to abolish ODAP. Many members of Congress expressed concern over the termination of ODAP because of their belief in the continuing need for such a high level policy and coordinating office, but also saw the need for reorganization in the Executive Office. A responsible official assured the Congress that the various functions of ODAP would continue to be fully carried out within the Executive Office of the President. On March 26, 1978, the reorganization plan took effect, and ODAP was abolished in April. All functions of ODAP have been absorbed by the Office of Drug Policy in the Domestic Council. Six staff members are assigned exclusively to drug abuse issues.

Various Members and committees of the Congress continue to be concerned about the possible adverse impact on drug abuse policy and coordination in the Government in the future as a result of the abolishment of ODAP. This concern centers around whether (1) the essential characteristics of the ODAP structure, accountability and accessibility to the Congress, will be maintained and (2) the policy studies and recommendations promulgated by ODAP as approved by the President will be implemented vigorously by all affected elements of the executive branch. The responsible committees of the

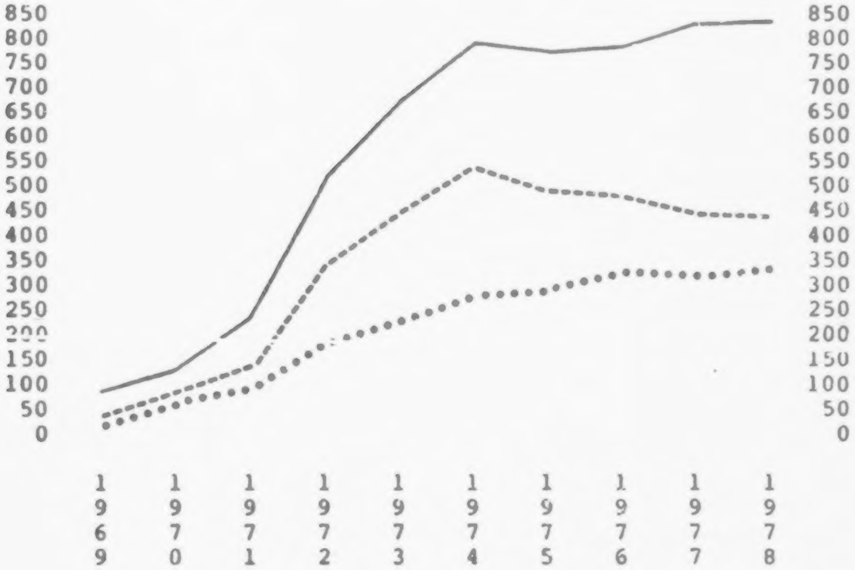
Congress have reserved judgment on how effective this new coordinating structure is until sufficient experience under the new setup has been gained.

FEDERAL RESOURCES--FISCAL YEARS 1969-1978

During the past decade, the Federal Government has spent about $5.5 billion on programs to prevent drug abuse and reduce the availability of illicit drugs. Prior to 1969, most resources were used to support law enforcement activities, but as the United States moved to other approaches for combatting the drug problem, demand reduction became the predominant effort in terms of financial assistance, receiving $3.4 billion, or 62 percent of Federal resources. Since 1969, $2.1 billion, or 38 percent of the Federal resources, were used for supply reduction, mainly for law enforcement efforts of BNDD/DEA and the U.S. Customs Service.

TOTAL U. S. DEMAND REDUCTION/SUPPLY REDUCTION OBLIGATIONS
F. Y. 1969-1978 (note a)

Total Obligations -
Demand Reduction --
Supply Reduction ...
(in millions of dollars)



a/ Figures for 1977 and 1978 are projected amounts

Source: Oversight Hearings on Federal Drug Strategy, 1977 House Select Committee on Narcotics Abuse and Control, p. 60.

Most U.S. efforts have concentrated on the domestic drug abuse problem. A small portion of total resources were devoted to the supply and demand problems in drug-producing countries. Assistance provided by the Department of State increased from $5.4 million in 1971 to $40 million in 1978. Overall, this support amounted to about $222 million, or about 4 percent 1/ of the Federal resources budgeted for drug abuse control over the past 10 years. The majority was used for supporting supply reduction efforts, namely crop eradication programs in Mexico and Burma.

1/This percentage would increase slightly if the expenditures for other Federal agencies' supply and demand reduction programs in foreign countries were included.

CHAPTER 4

BORDER MANAGEMENT PROBLEMS

NEED TO BE RESOLVED

The U.S. border provides an important opportunity for interdicting illicit drugs and obtaining intelligence about domestic and international drug distribution systems. However, the availability of drugs in the United States attests to the fact that our border has not been a serious impediment to illegal entry. Large amounts of heroin and marijuana have crossed our border with Mexico, and, even more recently, our Southeastern States have been flooded with marijuana and cocaine that is shipped by air and sea from South America. The issue of improved border control has been studied and recommendations have been made, but the problems remain unresolved. The seriousness of the problems and the ever-expanding segments of the border being used for large-scale smuggling dictate a need for corrective action.

WHY IS THE BORDER IMPORTANT TO DRUG CONTROL?

The major portion of the Nation's efforts to reduce availability of illegal drugs is directed toward disrupting the entire supply chain of production and distribution from overseas sources to domestic trafficking networks. This has been attempted by focusing enforcement efforts on the vulnerable parts of the supply system. The U.S. border provides an opportunity to affect the supply chain by intercepting drug traffic resulting in the arrest of persons and the seizure of drugs, discovery of previously unknown narcotics trafficking activities, and the possible determination of the source or the ultimate destination of the illegal drugs. This task is difficult at all borders, and is further complicated by our Nation's desire to maintain an essentially open border for facilitating the flow of legitimate traffic.

Control of the border is basically a problem of controlling the movement of people, vehicles, aircraft, boats, and goods. Presently, 8 agencies representing 7 cabinet departments are involved in border operations, enforcing over 400 Federal laws and regulations relating to border traffic. The principal agencies involved in law enforcement are the Customs Service, Immigration and Naturalization Service, and DEA. Other agencies with a role in controlling the border include the FBI; Bureau of Alcohol, Tobacco and Firearms; Department of Defense; Federal Aviation Administration; Coast Guard; Department of Agriculture; and Public

Health Service. In performing its responsibilities, each agency is expected to use its limited resources to achieve optimum results.

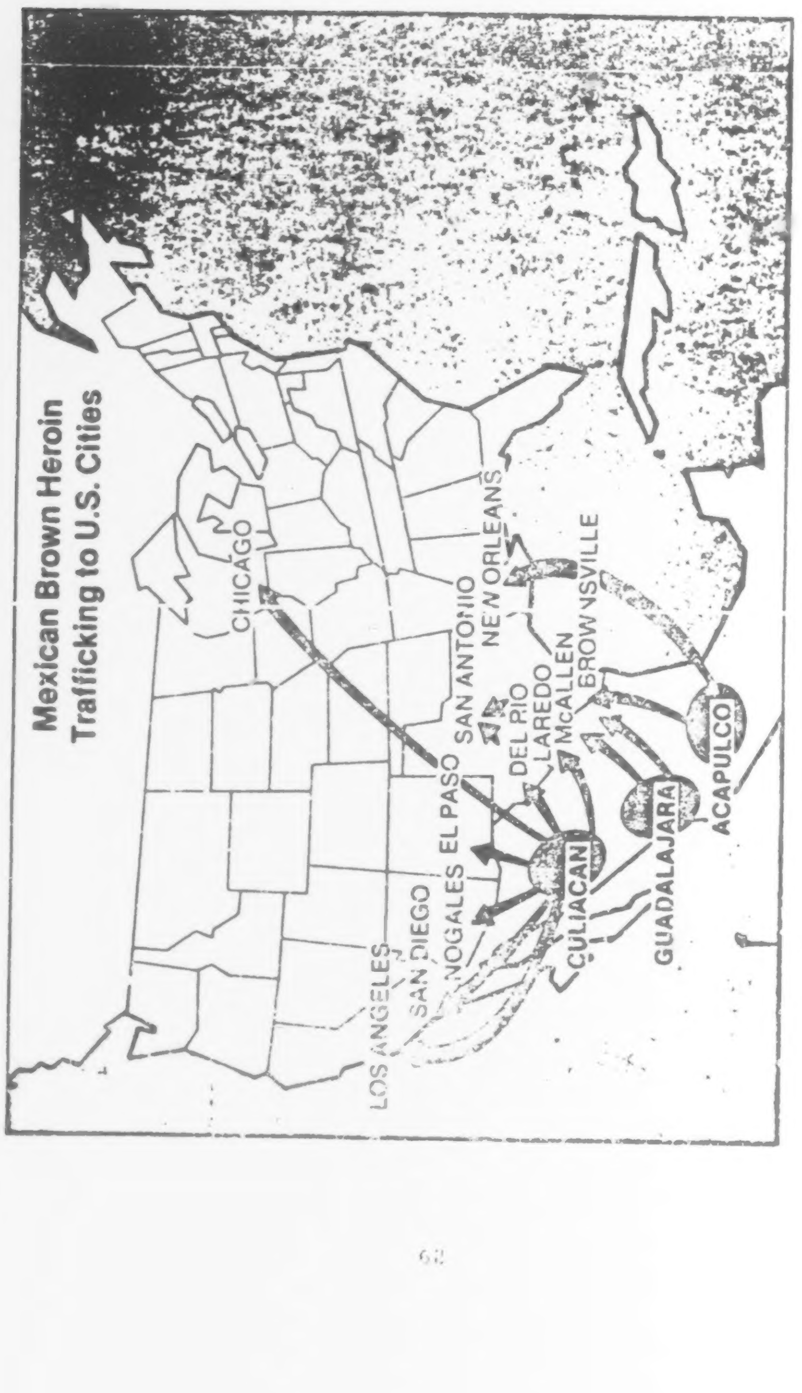
Over the past few years, the Congress, the executive branch, and our office have issued reports dealing with efforts to control illegal entry into the United States. Studies by the Congress and the executive branch have delineated the policy and direction that a border control program should take and the areas of operation that should be improved. The predominant recurring theme of these reports and studies is the need for greater coordination and cooperation among the various agencies having enforcement responsibilities in this area.

ILLEGAL ENTRY AT UNITED STATES-MEXICO BORDER

Mexico is a principal source or transit country for illicit drugs entering the United States. The map on the next page shows the trafficking routes for drugs flowing from Mexico across the Southwest border. Law enforcement activity along the U.S.-Mexico Border is a large part of the Nation's domestic and international efforts to contain this problem. Despite these efforts, the flood of illicit drugs across the border continues. If Federal enforcement activities along the border were better planned, coordinated, integrated, and executed, more control could be maintained.

While measuring the deterrent effect of border law enforcement is not possible, the available supply of drugs attests to the fact that it has not been a serious impediment to illegal entry. The substantial Federal investment for enforcement at the Southwest border is achieving only limited measurable impact on the drug problem. Border forces interdict only a small quantity of the estimated heroin and cocaine entering the United States from Mexico. Most seizures are marijuana.

Border apprehensions seldom involve high-level traffickers. The overwhelming majority of persons crossing the border in possession of drugs who are apprehended by Customs and Immigration and Naturalization Service (INS) are drug users, smalltime operators, couriers, or low-level members of drug trafficking organizations.



Mexican Brown Heroin Trafficking to U.S. Cities

CHICAGO
LOS ANGELES
SAN DIEGO
NOGALES
EL PASO
SAN ANTONIO
NEW ORLEANS
DEL RIO
LAREDO
McALLEN
BROWNSVILLE
CULIACAN
GUADALAJARA
ACAPULCO

Source: Drug Enforcement Administration

In 1978 we testified before congressional committees on the findings of our report 1/ on Southwest border control problems. We addressed the need for effective leadership and direction of our Nation's effort at this most critical border area. Controlling the movement of people, aircraft, boats, and vehicles along this 2,000 mile open-land border is complex and difficult. It requires what has not yet been achieved--a comprehensive, coordinated effort by all Federal law enforcement agencies. We found that separate Federal agencies carried out their specific missions with limited consideration for the activity of the others. This has produced separate but similar lines of effort, diluting border coverage and control, with little consideration for overall border security.

Although the border alone will not solve the drug problem, it is a necessary element if the Nation is ever to control this problem. The executive branch of the Federal Government has not developed an integrated strategy or a comprehensive border control plan to consider all aspects of the problem and establish clear, measurable objectives indicating what it intends to accomplish with the various law enforcement resources. A plan of this type is critical because of the many agencies with overlapping responsibilities.

We believe that sound management principles and the inherent difficulties of multiagency cooperation call for an integrated Federal strategy and comprehensive border control plan. Until this is accomplished, we recommend the following interim actions to strengthen law enforcement at the border and provide the data needed for evaluating the problem and determining what legislation is needed.

1. The Director of the Office of Management and Budget should prepare an annual analysis of law enforcement along the U.S.-Mexican border. Such an analysis would bring together the separate budget requests of the various border enforcement agencies to facilitate integration of agencies' plans, programs, resources, allocations, and accomplishments. The analyses should be included with the agencies' appropriation requests.

1/"Illegal Entry at United States - Mexico Border--Multiagency Enforcement Efforts Have Not Been Effective in Stemming The Flow of Drugs and People" (GGD-78-17, Dec. 2, 1977).

2. The Director of the Office of Management and Budget and the Domestic Policy Staff, together with the Attorney General, Secretary of the Treasury, and the other Department heads having responsibility for border law enforcement, should develop an integrated strategy and comprehensive operational plan for border control.

3. The Office of Management and Budget should coordinate closely with responsible congressional committees in developing legislation needed to accomplish the proposed plan.

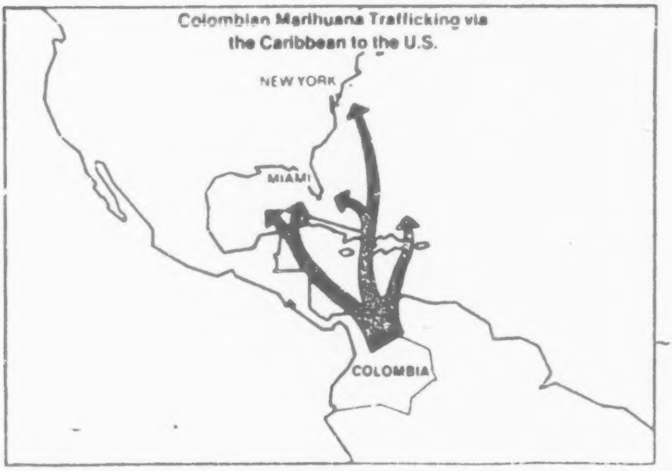
4. The Secretary of State should require the U.S. Mission in Mexico to expand the NCAP to include program goals and specific objectives for supporting border interdiction efforts.

The above recommendations were presented in our December 1977 report, together with various agencies' comments. The Office of Management and Budget and the Departments of Justice, Treasury, and State generally agreed with our findings and recommendations. The various departments supported the conclusion that the absence of a Federal Government integrated strategy and an overall border control plan has resulted in overlapping, duplicative, and poorly coordinated activities.

THE SOUTHEAST BORDER: "A DRUG DISASTER AREA"

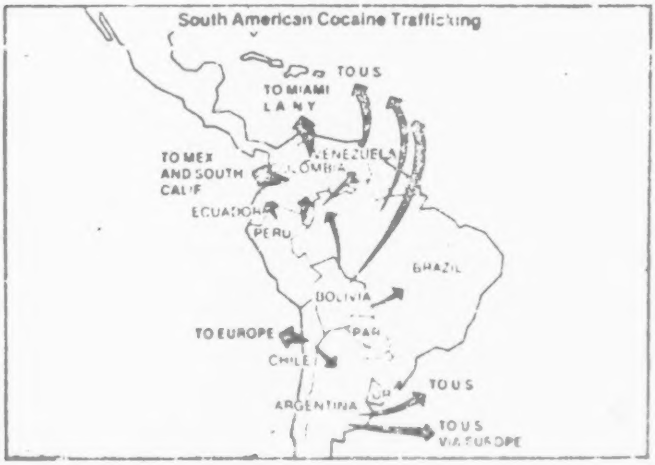
In recent years the smuggling of drugs from South America has become a major business in the Southeastern United States, particularly in Florida. Marijuana from Colombia arrives by the tonload, while hundreds of pounds of cocaine flow into the area for distribution across the country. The maps on the following pages show the major trafficking routes for drugs flowing from South America across the Southeast border of the United States. Such activity generates billions of dollars in income for those involved, with an incalculable tax revenue loss to the United States and with much of the profits destined for other countries. Law enforcement agencies have been overwhelmed by this enormous activity, and, to make matters worse, U.S. law generally does not make it illegal for individuals subject to U.S. jurisdiction to possess controlled substances on the high seas. In addition, current international agreements do not deal effectively with the large mother ships which carry multiton quantities of drugs on the high seas.

"The Colombian Connection"



Colombian Marihuana Trafficking via the Caribbean to the U.S.

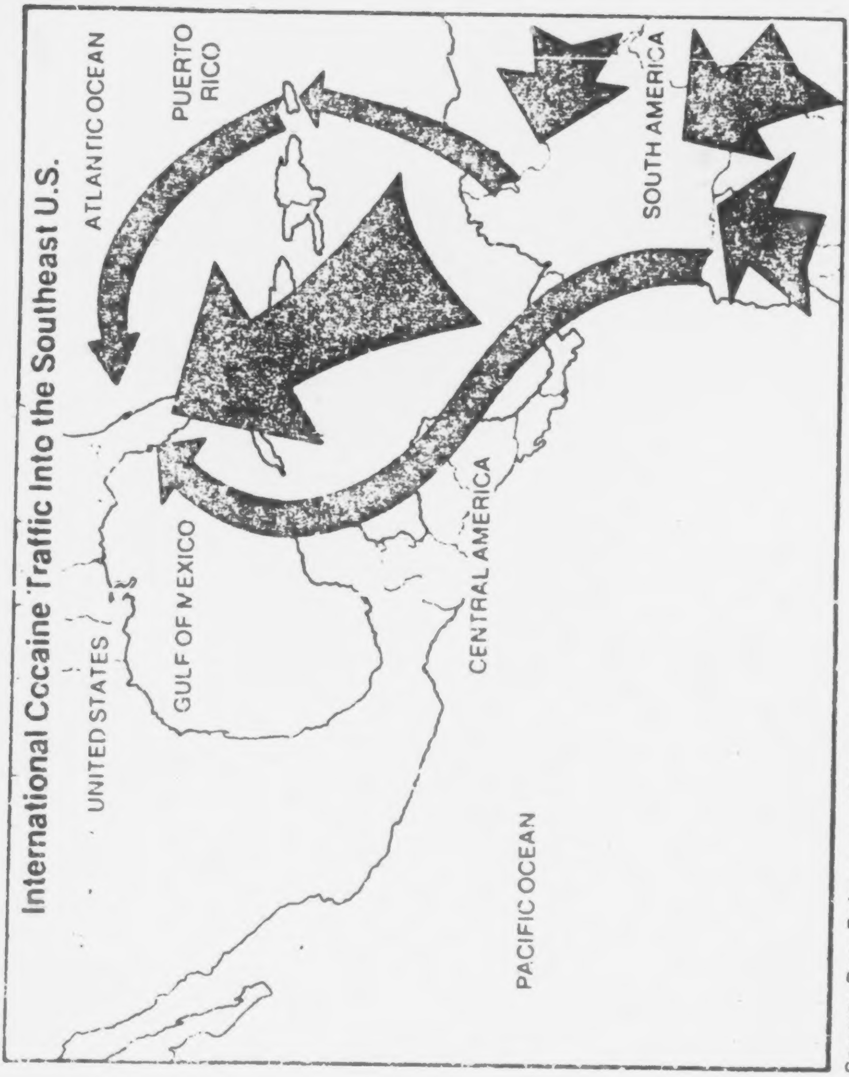
NEW YORK
MIAMI
COLOMBIA



South American Cocaine Trafficking

TO U.S
TO MIAMI
L.A. N.Y
TO MEX
AND SOUTH
CALIF
VENEZUELA
COLOMBIA
ECUADOR
PERU
BRAZIL
BOLIVIA
TO EUROPE
PAR
CHILE
UR
TO U.S
ARGENTINA
TO U.S
VIA EUROPE

Source: Drug Enforcement Administration



International Cocaine Traffic Into the Southeast U.S.

ATLANTIC OCEAN
PUERTO RICO
UNITED STATES
GULF OF MEXICO
CENTRAL AMERICA
SOUTH AMERICA
PACIFIC OCEAN

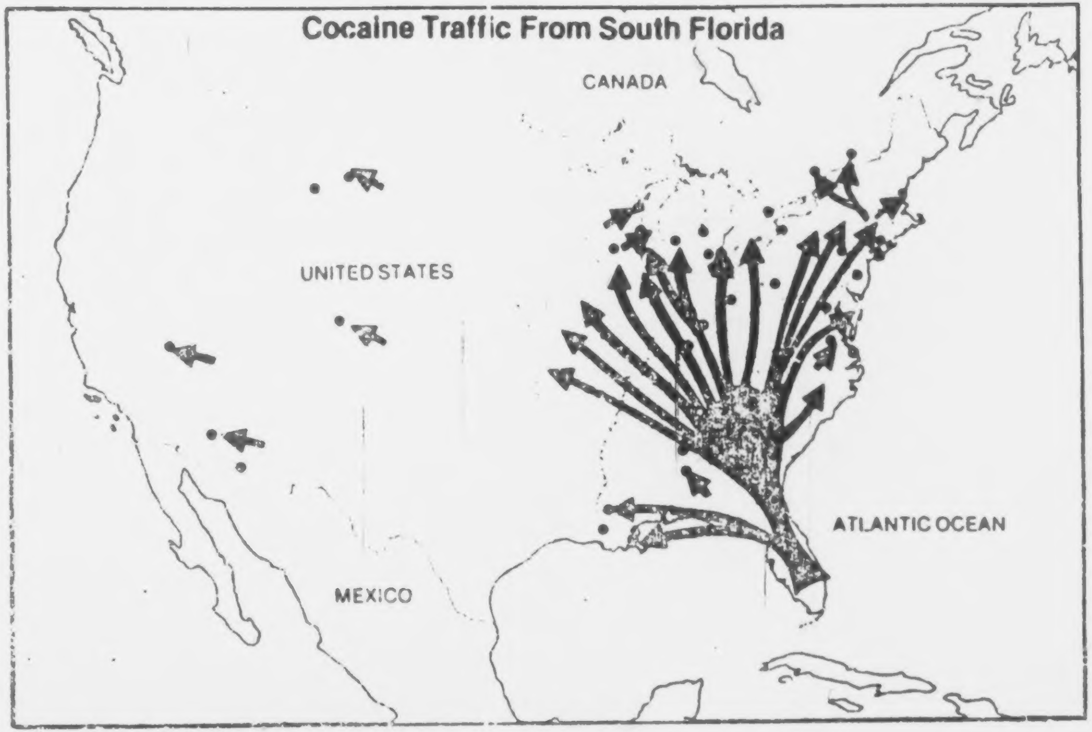
Source: Drug Enforcement Administration

Because of its geographic location and its many social, cultural, and financial ties, South Florida has long been a natural gateway for people and goods traveling between South America and the United States. While this traffic in the past has probably always included drugs, recent shifts in trafficking patterns have made the Southeastern region even more important. The success of the paraquat-spraying program in Mexico has resulted in increased use of Colombian marijuana, while U.S. demand for cocaine, grown chiefly in Peru and Bolivia, has increased. With 8,425 miles of shoreline on its 1,350 miles of coastline, and with over 250 airstrips, South Florida has emerged as a prime gateway for illicit drugs entering into the United States. The maps on the following pages show trafficking routes for drugs flowing from South Florida to other parts of the country.

During a 6-month period ending in June 1978, the U.S. Coast Guard, Customs Service, and DEA reported seizures of more than 477 tons of marijuana and 359 pounds of cocaine. In the same period, the Government of Colombia seized about 610 tons of marijuana. According to DEA, these seizures represent more drugs than were collectively seized by the Federal law enforcement community during the entire previous year.

Along with the drugs, large numbers of vessels of all sorts have been confiscated by Federal agencies. From July 1975 through March 1978, 107 vessels were seized in connection with charges of drug smuggling in the Southeastern United States, with over half of them seized in Florida. Seventy of these vessels contained 5,000 pounds or more of marijuana, with 19 of the 70 carrying 25,000 pounds or more of the contraband. (See photographs on pp. 78 and 79.) Some enforcement officials believe that, rather than serving to illustrate the effectiveness of law enforcement, the high volume of seizures merely indicates the tremendous amounts of drugs passing through the region.

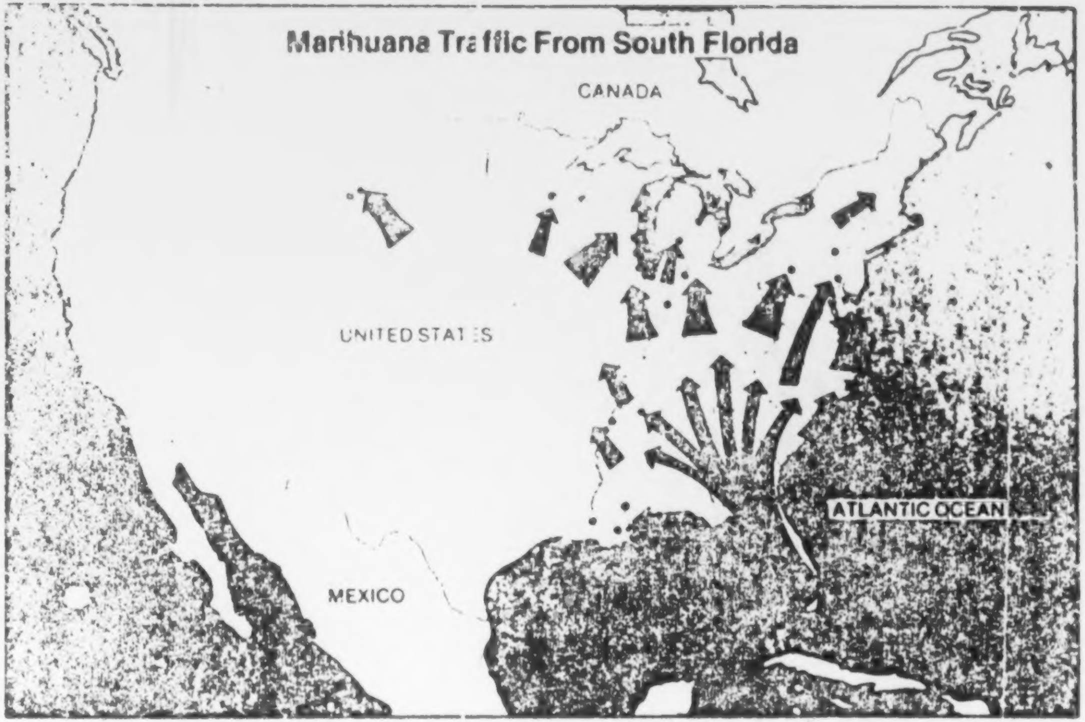
The Department of Justice believes that while the large seizures do indicate the tremendous volume of drugs available, they also are an indicator of improved cooperative enforcement. Justice estimates that the percentage of marijuana now seized, destroyed, or abandoned at sea may be in excess of 20 percent of that being imported into the United States.



Cocaine Traffic From South Florida

CANADA
UNITED STATES
ATLANTIC OCEAN
MEXICO

Source: Drug Enforcement Administration



Marihuana Traffic From South Florida

CANADA
UNITED STATES
MEXICO
ATLANTIC OCEAN

Source: Drug Enforcement Administration

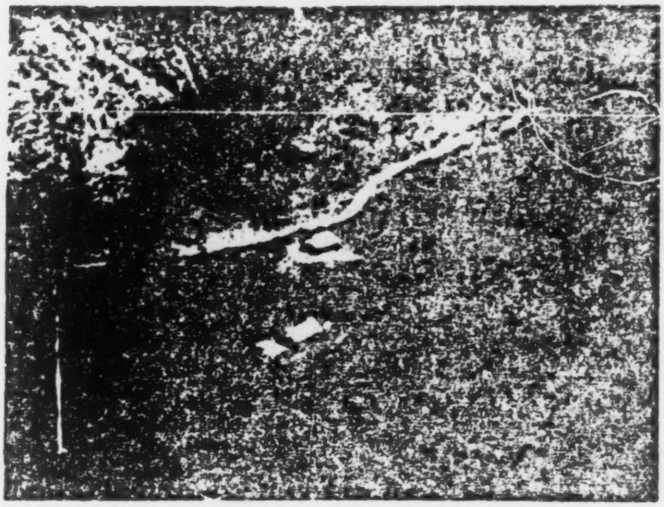
Federal enforcement agencies have paid increasing attention to the financial impact all this illegal drug activity has on the region and the entire country. In congressional testimony before the House Select Committee on Narcotics Abuse and Control during the summer of 1978, it was estimated that the total gross value of the drug trade in South Florida was at least $7 billion annually, with the majority from marijuana sales, and at least $500 million from cocaine sales.

Fortunes have been built on the drug trade, and persons with no visible means of support have paid huge sums for pleasure boats, homes, and other expensive properties. The House Select Committee on Narcotics Abuse and Control reported in August 1978 that to meet the demands for cash created by the illicit drug trade, the Federal Reserve System has had to shift million of dollars in cash to banks in the Miami district. Federal agencies have developed programs to attack the profit earned by drug traffickers. However, it is too early to tell what the results will be.

Many enforcement officials in South Florida believe the situation is completely out of control. Federal, State, and local agencies have been overwhelmed by the amount of smuggling activity. Large "mother vessels" with multiton loads of marijuana set anchor beyond the 12-mile limit as smaller vessels carry the contraband to shore. To make matters worse, the U.S. law generally does not cover the possession of narcotics on the high seas by U.S. citizens or by anyone aboard U.S. vessels. Extending coverage of U.S. law to this area can help, 1/ but the fact remains that most mother ships are either foreign registered or stateless. Under international treaties, the U.S. Coast Guard has blanket authority to board stateless vessels, but in the case of foreign vessels the Coast Guard must seek permission of its country of origin to board, search, and if necessary take action. This is a very time-consuming process. Since international treaties ordinarily do not deal with this issue, the key nations will have to unite to resolve it. Otherwise, the mother ships will continue to operate.

1/Legislation has recently been introduced (H.R. 2538, 96th Cong., 1st Sess., 125 Cong. Rec. H1049 (March 1, 1979)) which would make possession or transfer of controlled substances on the high seas by individuals subject to the jurisdiction of the United States substantive offenses.

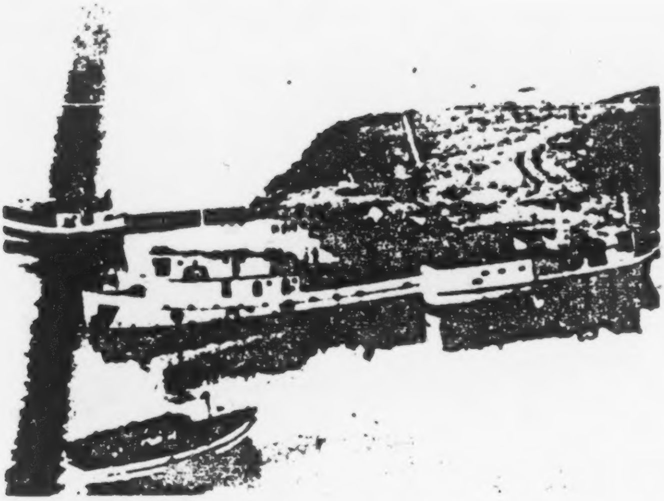
It is obvious that our Southeast border has not been controlled effectively. The Congress has recognized the problem, and the administration has taken some steps to strengthen drug enforcement in the area, including application of additional resources and the creation of joint enforcement task forces. While it is too early to assess the impact of these actions, the problem is not likely to go away. To improve the effectiveness of our present resources at U.S. borders, an integrated management plan is necessary.



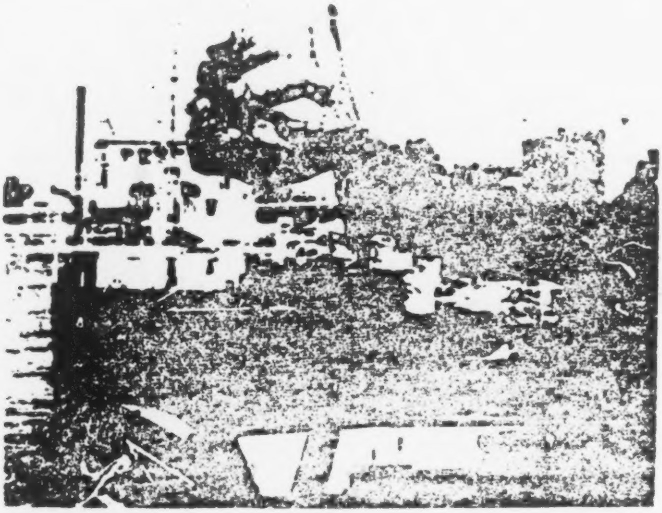
Marijuana Field in Colombia

Stored bales of marijuana awaiting shipment

Source: Drug Enforcement Administration



Loading of marijuana onto "mother ships"



Marijuana being unloaded from seized mother ship in Miami Florida, on way to incineration

Source: Drug Enforcement Administration

BORDER MANAGEMENT ISSUE UNRESOLVED

In 1977 the Office of Drug Abuse Policy completed a major study of border control and associated law enforcement activities. The ODAP report, developed with representation from the principal agencies involved in border control, focused on the major border functions of inspecting persons and goods at ports of entry and patrolling between these ports to prevent surreptitious entry. The report identified an overall lack of coordinated border management and a significant overlap and duplication of effort in both of the principal border control functions.

The report concluded that a revised management structure was needed which could achieve maximum effectiveness with available resources, respond to changing priorities, and provide adequate border control as well as better service to the public. ODAP recommended the following.

--A multipurpose border management agency should be created by consolidating INS and Customs in a new agency.

--An appropriate reorganization plan should be developed by the President's Reorganization Project to include placement of the consolidated border management agency in a cabinet department consistent with overall Government reorganization planning.

--The emphasis and direction of the reorganization planning should be to provide the optimum organization for long-term effectiveness in overall border control. This approach enhances control over all the border threats (drugs, aliens, loss of revenue, gun smuggling, etc.).

--Consolidation of the agencies and functions should be achieved through an umbrella management concept. The reorganization plan should provide a set of initial priorities, but allow the new Director some flexibility in determining the internal structure of the new agency. The following functions should receive high priority for early consolidation.

1. Primary inspection of all ports.
2. Patrolling of the land borders.
3. Operational support, particularly communciations and computer systems.
4. Management structure and administrative support.

The President's Reorganization Project cooperated in the ODAP study and concurred with its basic finding that adoption of a concept of "border management" was necessary to solve the organizational problems identified and to implement President Carter's announced initiatives in response to the problems of drug abuse and undocumented aliens. In December 1977, the project circulated a draft document, containing reorganization options relating to border management, among various knowledgeable individuals and groups for their comments and suggestions.

Ironically, and perhaps predictably, since the current efforts toward reorganization were initiated, the agencies involved in border enforcement have placed an increased emphasis on voluntary cooperative agreements. Previous studies of border activities also spawned interagency agreements and memorandums of understanding which temporarily lessened the severity of certain aspects of the problem. However, they did little to improve overall effectiveness or solve the long-term border control problem. The essential characteristic of the problem remains. Federal agencies with different orientations continue to identify the best activities to meet their missions with limited consideration for the activity of others. Little consideration is given to overall border security.

CONCLUSIONS

It is evident that the U.S. border has not provided the impediment to illegal entry of drugs that the Federal drug strategy has envisioned. The problems of managing the border are longstanding and, despite recent attention, have remained unresolved. The Congress and the administration need to get together to correct the situation. Still to be decided is whether the President's law enforcement reorganization plan will be submitted to the Congress. The plan's objective is to combine law enforcement agencies with similar functions to avoid overlapping and duplication, and to enable law enforcement to be carried out in an efficient and economical manner. In our opinion, this single agency approach makes the most sense as the long-range solution.

In view of the potential action, we are not repeating our recommendation relating to improvements in border management. We do feel, however, that corrective legislation is needed regarding the illegal possession of controlled substances on the high seas by individuals subject to U.S. jurisdiction. Such legislation would enable the Coast Guard to reach the activities of some of the mother ships described in this chapter. The legislation, however, would not reach the activities of foreign vessels on the high seas absent a treaty with the foreign nation involved or specific authorization by that foreign nation.

RECOMMENDATION TO THE CONGRESS

We recommend that the Congress enact legislation which would make it illegal for any person on a U.S. vessel or on a vessel subject to the jurisdiction of the United States or for a U.S. citizen on board any vessel to illegally possess or transfer on the high seas a controlled substance (as defined in section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. 812).

REPORT BY THE

Comptroller General

OF THE UNITED STATES

One-Stop Inspection System Speeds The Entry Of International Travelers

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Congressional Research Serv.

To find ways to speed the entry of international travelers into the United States, the Customs Service, in a joint effort with the Department of Agriculture's Animal and Plant Health Inspection Service and the Immigration and Naturalization Service, has tested a one-stop inspection system. The one-stop system reduces travelers' time spent waiting in line for and clearing the primary inspection process and results in more efficient use of Customs and Immigration inspectors. However, its effect on the enforcement of entry laws and regulations is unclear.

Because of the clearly demonstrated gains of the one-stop system regarding timeliness and efficiency and the uncertain and perhaps nonexistent drawbacks from a law enforcement standpoint, GAO believes that the one-stop inspection system is an improvement over the procedures used in the past.

GGD-82-62
MARCH 22, 1982

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. [illegible]

B-206770

The Honorable Sam M. Gibbons
Chairman, Subcommittee on Trade
Committee on Ways and Means
House of Representatives

Dear Mr. Chairman:

Because of concerns about the need to speed the entry of international travelers, your subcommittee in its fiscal year 1982 authorization for the U.S. Customs Service, required that Customs, in a joint effort with the Department of Agriculture's Animal and Plant Health Inspection Service and the Immigration and Naturalization Service, conduct a 6-month test of new Federal inspection systems in at least two major international airports. This report is in response to your May 4, 1981, request that we monitor and observe these tests.

We found that the tested procedures expedited the flow of international travelers through the Federal inspection process. However, their effect on the enforcement of entry laws and regulations is unclear. For example, the number of illegal imports of merchandise and currency seized increased at Los Angeles but decreased at Miami.

The inspection agencies selected the Los Angeles and Miami International Airports as test locations. The test started on August 4, 1981, and ended on January 31, 1982. Only one system was tested. It featured a one-stop inspection, conducted before travelers claimed their checked baggage rather than the traditional two-stop process. The one-stop inspection is essentially the system we previously recommended. 1/

The enforcement concerns of the Federal inspection agencies are:

—The Immigration and Naturalization Service (INS), an agency of the Department of Justice, determines the admissibility of each individual seeking entry into the country.

—The Customs Service, an agency of the Department of the Treasury, collects revenue on imported products, interdicts and seizes contraband (including narcotics and illegal drugs), and enforces more than 400 provisions of law for 40 other Federal agencies.

1/Report on "More Can Be Done to Speed the Entry of International Travelers" (GGD-79-84, August 30, 1979).

--The Animal and Plant Health Inspection Service (APHIS), an agency of the Department of Agriculture, prevents the entry of diseased or infected plants, foods, and animals.

To varying degrees, travelers are inspected by officers of one or more of these Federal agencies.

Prior to the test of the one-stop system at the Los Angeles International Airport, a citizen bypass system was used. Under citizen bypass, U.S. citizens with passports were not subjected to the traditional two-stop inspection system which was used at Miami--an Immigration and then a Customs primary inspection--rather, they by-passed the Immigration inspection. After they claimed their checked baggage, U.S. citizens underwent a one-stop inspection at Customs, where the Customs inspector performed Immigration and Customs clearance. The initial agriculture inspection for all travelers was performed by the Customs inspector. Under the one-stop system, one inspector conducts the inspection for all agencies. These inspectors screen individuals--prior to claiming their baggage--to separate the travelers requiring detailed inspection from the majority that do not.

The Federal inspection agencies' test of an alternative inspection system at Miami and Los Angeles demonstrated that:

--The one-stop inspection system does speed the entry of international travelers in comparison with the prior systems. The time travelers spent waiting to complete the primary inspection process at Miami and Los Angeles decreased by about 23 and 17 minutes. These times represent a 39 and a 35 percent decrease, respectively.

--Because less time was required to conduct the primary inspection, since one inspector carries out the primary inspection functions of all agencies, a more efficient use of Customs and Immigration inspectors resulted.

--The agencies' enforcement results, compared with those of a year earlier, were mixed. For example, Customs' seizures of drugs, merchandise, and currency at Miami declined 32 percent--from 414 to 283. On the other hand, the same seizures at Los Angeles increased by 42 percent--from 530 to 750. In this connection, Customs officials told us that the impact of the system on their enforcement activities is unclear.

Thus, overall, the test has demonstrated that the one-stop inspection system--while speeding the entry of travelers and increasing the productivity of inspectors--has an unclear effect on law enforcement. Because of the clearly demonstrated gains of the one-stop system regarding timeliness and efficiency and the uncertain and perhaps non-existent drawbacks from a law enforcement standpoint, we believe that the one-stop inspection system is an improvement over the procedures used in the past. In evaluating the test system, it would be appropriate to consider other systems, including those being used at other airports, or modifications to the test system. As we point out, some improvements can be made to the system tested.

The processing of international travelers, however, requires the involvement of not only the Federal inspection agencies but also the cooperation of airport operators and the airlines. Although the testing and implementation of an alternative inspection system is part of the solution to handling the increasing number of travelers, other factors that need to be considered are the adequacy of Federal staffing resources, the Federal inspection facilities, and the problems caused by peaking--the mass arrival of travelers occurring when flights arrive at about the same time.

For example, the number of Customs and INS inspectors at Miami was a critical factor in the time spent by travelers waiting for the one-stop primary inspection. If additional inspectors had been available, more primary inspection stations could have been opened which would have reduced the time travelers spent waiting for the primary inspection. In addition, the Los Angeles and Miami airport operators have already made extensive modifications to facilities to accommodate the test of the one-stop system. And, as you know, alternative solutions to the peaking problems are the subject of a separate request from your subcommittee. We plan to report to you on those matters in July 1982.

The Federal inspection agencies are in the process of preparing their evaluation of the test. The one-stop system is still being used at the Los Angeles and Miami airports. Appendix I to this report contains our observations and conclusions on the alternative one-stop inspection system.

Since the test did not end until January 31, 1982, and to meet the subcommittee's reporting deadline, we did not submit this report to the Federal agencies involved for their official comments. The objectives, scope, and methodology of our review are shown in appendix X.

B-206770

As arranged with your office, we plan no further distribution of this report until 3 days from its issue date, unless you publicly announce its contents earlier. At that time we will send copies to the heads of the Federal agencies involved and other interested parties. Copies will be made available to others upon request.

Sincerely yours,

Charles A. Bowsher

Comptroller General
of the United States

BY THE COMPTROLLER GENERAL

Report To The Congress

OF THE UNITED STATES

Federal Drug Interdiction Efforts Need Strong Central Oversight

Despite increasing resources for drug interdiction, only a small percentage of drugs entering this country are seized. The authority and responsibility for Federal drug interdiction efforts are split among three executive departments (Justice, Treasury, and Transportation), each with different programs, goals, and priorities. The current administration has emphasized joint task forces to improve coordination. Although the establishment of these groups has improved operational coordination, no one individual has the information or responsibility to evaluate Federal drug efforts and recommend corrective actions.

GAO makes recommendations to the President to strengthen central oversight of the Federal drug enforcement program. Also, interdiction efforts can be further enhanced by improving the quality and timeliness of intelligence data and through well planned and coordinated use of military assistance.

GAO/GGD-83-62
JUNE 13, 1983

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

B-203099

To the President of the Senate and the
Speaker of the House of Representatives

This report describes and assesses Federal drug interdiction efforts and recommends ways to improve effectiveness. This review was made because of long-standing congressional concern about the smuggling of illegal drugs into the country.

Copies of this report are being sent to the President of the United States; the Director, Office of Management and Budget; the Attorney General; the Secretaries of Defense, Transportation, Treasury, and State; the Acting Administrator of the Drug Enforcement Administration; the Commissioner of the U.S. Customs Service; the Director of the Drug Abuse Policy Office; and other interested parties.

Charles A. Bowsher
Comptroller General
of the United States

COMPTROLLER GENERAL'S REPORT
TO THE CONGRESS

FEDERAL DRUG INTERDICTION EFFORTS NEED STRONG CENTRAL OVERSIGHT

DIGEST

Drug abuse in this country is a persistent and growing problem. Interdiction of illegal drugs, one component of Federal efforts to reduce the drug supply, has had limited impact on the drug flow. Despite increasing resources for interdiction, only a small percentage of drugs entering this country are seized.

WHY THE REVIEW WAS MADE

GAO conducted this review because of the significant increases in resources devoted to drug interdiction programs and because of the continuing vast amounts of drugs smuggled into the country. GAO's objectives were to evaluate the results of interdiction programs, the extent of cooperation and coordination among the various agencies, the role of intelligence in interdiction efforts, and the ability of the military to assist in drug interdiction.

INTERDICTION--ONE PART OF THE FEDERAL DRUG STRATEGY

Federal efforts to attack the supply of illegal drugs have three major components: international programs aimed at drug-producer countries, interdiction of drugs at the border, and domestic law enforcement.

Federal interdiction efforts include inspections of international travelers and cargo by the U.S. Customs Service inspectors, air and marine interdiction efforts of Customs patrol officers, and sea interdiction by the U.S. Coast Guard. The Drug Enforcement Administration (DEA) supports interdiction through the provision of intelligence and by investigating and presenting interdiction cases to U.S. attorneys. (See pp. 4 to 7.)

INTERDICTION RESULTS REMAIN LIMITED

Federal resources devoted to drug interdiction more than tripled from 1977 to 1982--from $83 million to $278 million. The Coast Guard's drug interdiction program comprises the majority of this increase. Meanwhile, funds for other facets of the Federal drug supply reduction program--international drug activities and domestic law enforcement--remained relatively constant. (See pp. 11 to 13.)

Despite these increases, only 16 percent of the marijuana and less than 10 percent[1] of heroin, cocaine, and dangerous drugs that are entering this country are seized through total drug enforcement efforts. Also, 95 percent of the individuals arrested in interdiction cases are low level violators and when convicted usually spend less than a year in jail. (See pp. 14 to 19.)

Joint special projects conducted by two or more agencies have proven especially effective in attacking drug smuggling. Of particular note are special DEA investigations that involve Customs and the Coast Guard resources. (See pp. 19 to 26.)

PROGRAM FRAGMENTATION LIMITS EFFECTIVENESS OF INTERDICTION EFFORTS

The authority and responsibility for Federal drug interdiction efforts are split among three separate agencies in three executive departments. Each agency has different programs, goals, and priorities. And, although the level of cooperation is increasing, especially in South Florida, such fragmentation has a certain amount of inefficiency and interagency conflict built in. (See pp. 30 to 32.)

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[1] These and other such estimates in the report were developed by GAO analysis of Customs, DEA, and National Narcotics Intelligence Consumers Committee data.

Congressional oversight and executive branch resource allocation decisions relative to drug interdiction are difficult under these circumstances. The budgets of the three agencies are developed in separate departments, reviewed by different OMB branches, and funds are authorized and appropriated by separate congressional committees. Also, very little information is available, either by agency or in the aggregate that can be used as a basis for evaluating program results. Aggregate seizure statistics are sometimes overstated when there is more than one participating agency, and very little case disposition information on arrestees is maintained. (See pp. 33 to 39.)

Another issue related to program fragmentation is the lack of a definitive policy regarding followup investigations of interdiction cases. Under the current division of responsibilities, DEA conducts followup investigations on the Coast Guard's or Customs' arrestees. DEA usually performs followup investigations only if the cases (less than 40 percent) will be prosecuted by a U.S. attorney. Consequently, information which could be of value to future investigations is not being obtained on the majority of the interdiction cases. (See pp. 39 to 46.)

Fragmentation of Federal efforts has long been recognized as a major problem. To help remedy this situation, Congress passed legislation in 1972 and 1976 that requires the President to develop a comprehensive national drug strategy and to appoint a drug abuse policy coordinator. While various drug strategies have been prepared over the years, the most recent in October 1982, none has adequately defined the various agencies' drug interdiction roles. Furthermore, the drug abuse policy coordinator has never had the authority to exercise the necessary policy and priority-setting oversight of Federal drug efforts. (See pp. 46 to 51.)

The current administration has organized or proposed several new groups to help coordinate Federal drug efforts. The South Florida Task Force, under the direction of Vice President Bush, was an excellent example of a cooperative effort by all the major Federal agencies involved in drug enforcement efforts. While these efforts have certainly improved operational coordination among the various agencies, these coordination mechanisms still do not provide a composite picture of all Federal resources devoted to drug enforcement or provide a basis for allocating these resources in terms of budgetary priorities. (See pp. 51 to 53.)

BETTER, MORE TIMELY INTELLIGENCE NEEDED

The effectiveness of Federal interdiction efforts depends a great deal on intelligence support capabilities. Statistics on the use of prior intelligence to support interdiction, as well as certain special projects, indicate the value of good, timely intelligence. (See pp. 57 to 59.)

Drug source and transit countries are valuable sources of intelligence that can be used to support interdiction efforts. However, Customs and Coast Guard must rely on DEA to provide this intelligence. Yet, the international programs of DEA and the Department of State do not place a high priority on supporting interdiction efforts. For example, a stronger intelligence program is needed in the Caribbean, a major transit area for drug smuggling. (See pp. 59 to 62.)

DEA, Customs, and the Coast Guard all have domestic intelligence programs, and some intelligence processing and analysis has been centralized at the El Paso Intelligence Center. The Center can be more effective if better supported and utilized by the agencies involved in drug interdiction. Moreover, certain Customs and Coast Guard intelligence analysis functions should be transferred to the Center. (See pp. 62 to 69.)

MILITARY ASSISTANCE INCREASING

The military departments have provided some limited assistance to drug enforcement agencies over the last several years. Changes to the

Posse Comitatus Act in December 1981, which further defined the extent of allowable military involvement in support of civilian law enforcement, have resulted in a greater role for military resources in drug interdiction. (See pp. 73 to 79.)

Although military assistance can be beneficial, it is also necessarily limited because

--major long-term commitments of military assistance can adversely impact the military's primary mission;

--military equipment is expensive to operate and, for the most part, reimbursement is beyond the financial capabilities of law enforcement agencies; and

--disclosure of classified military systems in court might be required and this could compromise national security. (See pp. 79 to 86.)

RECOMMENDATIONS

GAO recommends that the President

--direct the development of a more definitive Federal drug strategy that stipulates the roles of the various agencies with drug enforcement responsibilities and

--make a clear delegation of responsibility to one individual to oversee Federal drug enforcement programs. (See p. 54.)

This report also contains a number of recommendations to the Director, Office of Management and Budget; the Attorney General; and the Secretaries of Treasury, Transportation, and State to accumulate drug enforcement budgeting data, develop a management information system, and strengthen drug interdiction intelligence efforts. (See pp. 53, 54, and 70.)

AGENCY COMMENTS AND GAO'S EVALUATION

The Departments of Justice, Treasury, Transportation, State, and Defense provided written comments on the draft report. The draft report was discussed with OMB officials. The White House Office of Policy Development and the Office of Drug Abuse Policy elected not to comment on the draft.

With respect to GAO's recommendations to the President, the Department of Transportation concurred with the recommendations; the Departments of Treasury, State, and Defense did not specifically comment on the recommendations; and the Department of Justice disagreed.

The Department of Justice pointed out a series of actions taken by the Administration toward achieving a coordinated national drug investigative effort. The Department stated that current efforts by the Administration, such as the South Florida Task Force and the President's creation of 12 new Drug Enforcement Task Forces, are intended to foster even closer Federal agency coordination. The Department of Justice also noted that legislation to create an "Office of the Director of National and International Drug Operations and Policy" was passed by the 97th Congress. President Reagan withheld his approval of this legislation noting that such a drug program manager would create a new bureaucracy in the Executive Branch and compound the problems of coordination.

GAO believes, however, that the current arrangements do not provide a mechanism for optimizing coordination and implementing priorities for the allocation of limited Federal drug enforcement resources within and across all components of the Federal drug effort. Giving one individual the responsibility to oversee the entire Federal drug program, as GAO has recommended, would be an extension of the efforts to increase coordination already begun by the agencies. Such responsibility, however, should not extend to the day-to-day operations of the individual agencies, because each agency is best capable of managing its particular functions within the context of its overall agency mission.

Legislation to establish a drug operations and policy office, similar to that passed by the

Congress last year, has been introduced in the 98th Congress (S. 406). Although GAO has not specifically analyzed this legislation, GAO's findings support the concept of central drug oversight, which is a major objective of the legislation.

The Department's of Justice and Transportation supported GAO's recommendation to develop a management information system. The Department of the Treasury did not specifically comment on this recommendation. The Department of Transportation concurred with GAO's recommendation to accumulate drug enforcement budgetary data. Other agencies and departments did not comment on this recommendation. The Departments of Treasury, Transportation, Justice, and State pointed out in their comments that development of intelligence is important to an interdiction program. However, some of these agencies disagreed on how to improve the intelligence programs.

The agencies' detailed comments on all of GAO's recommendations are included in appendixes VIII through XII and GAO's analysis is presented in relevant sections of the report and at the ends of chapters 2, 3, 4, and 5.

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ABBREVIATIONS

AWACS	Airborne Warning and Control System
CLEAR	Customs Law Enforcement Activity Reporting System
DEA	Drug Enforcement Administration
DOD	Department of Defense
EPIC	El Paso Intelligence Center
FBI	Federal Bureau of Investigation
GAO	General Accounting Office
NORAD	North American Air Defense Command
NOSIC	National Oceanic Surveillance Information Center
OMB	Office of Management and Budget

CHAPTER 1

INTERDICTION: ONE PART OF THE FEDERAL EFFORT TO ATTACK THE DRUG PROBLEM

Drug abuse in this country is persistent and growing. The retail value of illegal drugs consumed in the U.S. in 1980 is estimated to be $80 billion.

A variety of sources and methods are involved in supplying and smuggling drugs. South American, Caribbean, and Asian countries as well as Mexico and the United States are sources for one or more of the drugs. The drugs are being smuggled through ports-of-entry, within merchandise or with travelers, and between ports-of-entry by private aircraft and vessels traveling surreptitiously. Currently, most of the marijuana, dangerous drugs, and cocaine smuggled between the ports-of-entry enter the country via Florida and other gulf coast and southeastern States. This report focuses on Federal efforts to reduce the smuggling of drugs into the United States between ports-of-entry.

DRUG PROBLEM PERSISTS

Vast quantities of illicit drugs--heroin, cocaine, marijuana, and dangerous drugs--are entering the country. Recent estimates indicate the quantity of drugs supplied to the illicit U.S. market has increased.

About 7 percent more heroin entered the country in 1980 than in 1979. This reverses the steady decline in the flow of heroin experienced from 1975 through 1979. While the total amount of heroin entering the country in 1980 (about 8,800 pounds) was considerably less than in 1975 (about 16,500 pounds), data on smuggling activity, purity levels, and heroin-related deaths clearly demonstrate a rise in heroin use. Furthermore, the National Narcotics Intelligence Consumers Committee projects increases through 1984. Southwest Asian countries (Pakistan, Afghanistan, and Iran) and Southeast Asian countries (Burma, Laos, and Thailand) are supply sources of 75 percent of the heroin entering the United States. The supply source for the remaining 25 percent is Mexico. Most of the Asian heroin is transported by commercial air passenger couriers while Mexican heroin is transported predominately by automobiles and pedestrians.

Available quantities and abuse of many types of dangerous drugs have also increased. The sources of dangerous drugs on the U.S. illicit market are domestic clandestine laboratories, diversion of precursor chemicals and legal drugs from the legitimate U.S. distribution system, and illicit imports of diverted and clandestinely manufactured drugs from other countries. Most of the dangerous drugs smuggled into the United States are transported over land from Mexico and in private aircraft and vessels from Colombia.

Percentage increases in the amount of cocaine supplied to this country overwhelmingly exceeded increases in the amounts of other drugs. About 46,000 pounds of cocaine entered the country in 1977 and about 97,000 pounds entered in 1980--an increase of 110 percent. Cocaine for the U.S. market originates primarily in the South American countries of Bolivia, Peru, and Colombia. Although Peru and Bolivia remain the principal sources for coca leaf, the raw material for illicit cocaine production, most cocaine is processed in and transits Colombia. The major transportation means for cocaine shipments is by air--50 percent by air, 35 percent by sea, and 15 percent by land. Both private and commercial passenger flights as well as air cargo shipments are used.

The supply of marijuana increased in both 1979 and 1980, with Colombia producing the majority of the marijuana entering the country. The National Narcotics Intelligence Consumers Committee estimates that over 10,000 tons of marijuana, 75 percent of the total consumed annually, originates in Colombia. Marijuana is also grown in Jamaica, Mexico, and the United States. These countries produce 10 percent, 8 percent, and 7 percent, respectively, of the 14,000 tons consumed in the United States annually. Various modes of transportation are used to smuggle marijuana. Sixty percent of all imported marijuana was transported by sea. Air smuggling is the preferred mode of transporting marijuana from Jamaica. Mexican marijuana is transported in private aircraft and over land either in automobiles or with pedestrians. Domestically grown marijuana travels via all modes of interstate transportation.

The National Narcotics Intelligence Consumers Committee estimates that through 1984 marijuana and dangerous drug usage will remain stable while cocaine usage will continue to increase but at a slower rate than in the last few years. The National Narcotics Intelligence Consumers Committee also projects increases in heroin usage through 1984. Illegal drugs generated retail sales of about $50 billion in 1978, $65 billion in 1979, and $80 billion in 1980, with cocaine the top illicit income producer in 1979 and 1980, generating 34 percent and 37 percent of the total retail values during those respective years.

EFFORTS TO REDUCE THE DRUG SUPPLY

Federal supply reduction efforts are designed to reduce the quantity of drugs available for illicit use as well as contain and disrupt the distribution systems. The major components of supply reduction efforts are international programs, Federal domestic law enforcement, and border law enforcement.

The basic goals of the international programs are to encourage and assist foreign governments to reduce the production of illicit narcotics and to interdict the flow of illegal narcotics and dangerous drugs before they enter the United States. Reducing the supply of drugs available in the United States depends strongly on the cooperation and capability of foreign governments. Past efforts have centered on programs for crop eradication and substitution, cooperative drug law enforcement, and diplomatic initiatives to encourage assistance from other nations. The Bureau of International Narcotics Matters, within the Department of State, is the lead agency for coordinating the international programs.

The objectives of Federal domestic drug law enforcement are to disrupt illicit trafficking organizations and reduce the availability of drugs for illicit use. This approach implements the supply reduction strategy in three ways. First, the arrest, prosecution, and incarceration of traffickers and immobilization of trafficking organizations results in the elimination of some capabilities to supply illicit drugs. Second, the removal of drugs from the distribution networks reduces the supply of drugs. Third, the seizure of equipment and resources needed to operate the networks cripples or inconveniences the operations of the traffickers. Provisions of Reorganization Plan No. 2, effective July 1, 1973, established the Drug Enforcement Administration (DEA) within the Department of Justice and designated it as the lead agency for domestic enforcement. In addition, in January 1982 the FBI was granted concurrent investigative authority with DEA.

Interdiction at the border is an important component of the supply reduction strategy because of the removal of drugs, the arrest of traffickers, the deterrent effect, and the potential to obtain valuable information concerning trafficking methods, organizations, and activities. Controlling the border is the joint responsibility of several Federal agencies. The key agencies involved in interdiction at the border are the U.S. Customs Service of the Department of the Treasury, DEA, and the U.S. Coast Guard of the Department of Transportation. The desire to maintain an open border for facilitating the flow of legitimate traffic complicates the border control task.

INTERDICTION AT THE BORDER

Drugs are smuggled into all parts of the country by a variety of methods including cargo shipments, individual couriers on public transportation conveyances, and clandestine trips by private aircraft and vessels. These smuggling methods take place either through the ports-of-entry (predominately commercial cargo and passengers) or between the ports-of-entry (mostly private aircraft and vessels). The primary Federal agency with border control responsibilities is the Customs Service, which, in general, has inspectors at ports-of-entry and patrol officers between the ports-of-entry. In addition, the Coast Guard has a major program targeted at smuggling by private vessels.

Inspection at the ports-of-entry

The majority of heroin and large amounts of cocaine enter the United States by private couriers on commercial aircraft or vessels and through air and sea cargo at ports-of-entry. For example, according to Customs statistics, all of the fiscal year 1981 seizures of heroin greater than 5 pounds were made in ports-of-entry, and 80 percent of these were from commercial air passengers. In addition, 22 of the 30 fiscal year 1981 seizures of cocaine greater than 10 pounds were from air passengers or discovered in air and sea cargo or private vehicles. Primary responsibility for discovering drugs at air, sea, and land ports-of-entry rests with the Customs Service Office of Inspection.

Air and sea smuggling between ports-of-entry

The majority of marijuana and a significant percentage of the cocaine and dangerous drugs that enter the United States arrive between the ports-of-entry and are carried predominately by private vessels and aircraft. Information from the Customs Law Enforcement Activity Reporting System (CLEAR) shows that of the drugs seized, 65 percent of the marijuana, 22 percent of the cocaine, and 18 percent of the dangerous drugs were seized between the ports-of-entry. Primary responsibility for combating air and sea smuggling between the ports-of-entry rests with Customs Office of Patrol and the Coast Guard.

Smuggling by private aircraft

Private aircraft traveling clandestinely are often used to smuggle marijuana, cocaine, and dangerous drugs. In general, the contraband smuggler uses a propeller-driven, fixed-wing aircraft, flies under cover of darkness without use of navigation lights, penetrates the border at low altitudes, and lands between the ports on clandestine airstrips. A study conducted by the Stanford Research Institute in fiscal year 1979 stated there were 800 to 1,000 private aircraft involved in smuggling that were making 5,100 to 8,400 flights into the United States annually. These air intrusions transported 11 million pounds of marijuana and 17,500 pounds of cocaine annually. A Customs' Information Services Staff intelligence study stated that the use of private aircraft is one of the principal methods for transporting marijuana, cocaine, and dangerous drugs into the United States from the principal source countries. Furthermore, this trend is expected to continue.

The mission of Customs air patrol, the primary defense against the air smuggler, is to stem the flow of contraband smuggled into the United States by private aircraft. The air patrol operations begin when an intruder is detected and identified as a violator. Then, Customs personnel pursue the aircraft to its landing point--if the landing point is within U.S. jurisdiction. The final stage of the process ideally involves the apprehension of the aircraft and the arrest of the pilot and passengers.

The Federal Aviation Administration of the Department of Transportation and the military provide some support to the air interdiction efforts. Federal Aviation Administration procedures governing the operations of private aircraft provide a base from which potential violators can be identified. Additionally, Customs has used military and Federal Aviation Administration resources, primarily aircraft and radar facilities, and has explored the use of National Aeronautics and Space Administration satellites.

Smuggling by private vessels

Maritime smuggling is one of the primary methods used to import illicit drugs--especially marijuana. According to National Narcotics Intelligence Consumers Committee estimates, 60 percent of the marijuana imported is shipped by sea. While several types of vessels are involved in maritime smuggling, mothership operations predominate. Vessels involved in smuggling are either large commercial-type vessels ranging from 60 to 300 feet in length known as "motherships," or smaller pleasure-type vessels used as "control boats" or "round trippers." In mothership operations the vessels leave the source country loaded with contraband, usually marijuana, and travel until met offshore by contact boats. The contraband is transferred from the mothership to the contact boats and then smuggled into the country between the ports-of-entry. In some instances, the motherships drop the contraband at stash sites instead of meeting contact boats. Another maritime operating method involves round-tripping. Fishing vessels, sailboats, or yachts make trips from the United States to foreign ports and return to the United States loaded with contraband.

While exact estimates of the number of private vessels involved in smuggling do not exist, the El Paso Intelligence Center (EPIC) reports over 1,000 vessels were placed on lookout during 1981. EPIC, a facility jointly staffed by several law enforcement agencies but operated by DEA, serves as a central point for collecting, analyzing, and disseminating drug smuggling related information. Additionally, a Customs intelligence study predicts private vessels will continue to be used extensively to smuggle contraband, particularly from South America and the Caribbean to the United States.

The Coast Guard is responsible for enforcing all Federal laws upon the high seas and waters over which the United States has jurisdiction and leads the efforts against sea smugglers. The Coast Guard's primary strategy against smuggling by sea is to concentrate its resources on intercepting motherships. To do this, the Coast Guard patrols the principal Caribbean channels, also known as "choke points," within the major drug routes used by smugglers.

Marine interdiction operations closer to the shores are conducted by Customs' marine patrol as well as the Coast Guard. These efforts are directed toward the small contact boats often used to transport the drugs from the mothership to the shore.

The military provides assistance to the marine interdiction efforts by providing information on the movements of suspect vessels and by loaning equipment to the Federal agencies involved. Additionally, the Department of State coordinates those marine activities that involve foreign vessels or occur in foreign waters.

DEA's interdiction responsibilities

Even though Customs and Coast Guard are the principal agencies responsible for drug interdiction, both between and within the ports-of-entry, DEA also has a major drug interdiction role. Reorganization Plan #2 of 1973, which created DEA, sought to centralize Federal drug law enforcement primarily in one agency. Under the plan, the drug investigative and foreign intelligence-gathering functions and resources of the Customs Service were transferred to DEA. The Customs Service's antidrug role was limited to interdiction of drugs at the border. As a result, since 1973 DEA has been responsible for providing foreign intelligence on drug movements and performing postinterdiction investigations of seizure cases. In addition, many Federal seizures of drugs are the result of DEA domestic investigations.

Much of the air and sea drug smuggling intelligence is provided by DEA through EPIC. In support of efforts to combat air and sea drug smuggling, EPIC's staff prepares threat analyses, provides tactical intelligence on suspect movements, identifies violators through its lookout system and generally relays relevant information to the law enforcement community.

THE SOUTHEASTERN UNITED STATES: GATEWAY FOR ILLEGAL DRUGS

Currently, most marijuana and cocaine enter the country through the southeastern States--most notably Florida. Until approximately 5 years ago, the Southwest border area was the primary entry point for illicit drugs smuggled into the United States. At that time, Mexico was the major source country for heroin, marijuana, and other illicit drugs. The success of joint U.S.-Mexican eradication efforts in Mexico had a significant impact on the availability of drugs. These successful efforts resulted in a change in the source country, which in turn created a shift in trafficking patterns. Colombia, Jamaica, and other South American countries emerged as principal source countries for marijuana, cocaine, and dangerous drugs.

A recent EPIC report states that, although drug smuggling and related activities occurred in just about every State and U.S. territory during 1981, the southeastern and gulf coast States have become the preferred entry point for smugglers transporting cocaine, marijuana, and dangerous drugs. This is due to the location of the source countries and the topography of these States. The many miles of isolated inland waterways, the numerous unlit dirt strips, the open beaches, coastal islands, and undeveloped land enable easy access with little chance of detection.

The vast majority of the drugs smuggled into the area enter through Florida. EPIC estimated that in 1981 Florida was targeted for 68 percent of all maritime drug smuggling and 47 percent of all air smuggling destined for the United States.

Intelligence sources indicate the southeastern and gulf coast States will remain the primary entry area. However, enforcement efforts are underway in the area which may, if successful, change this trend.

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Our review focused on Federal interdiction programs because of the significant increases in resources devoted to these programs and because of the continuing vast amounts of drugs being smuggled into the country. The review objectives were to evaluate the results of the interdiction programs, the extent of cooperation and coordination among the various agencies, the role of intelligence in the interdiction efforts, and the ability of the military to assist in drug interdiction. To accomplish these objectives, we focused primarily on the interdiction-related operations of the Coast Guard, Customs Service, DEA, Department of Defense, and the military services. Details of our scope and methodology are contained in appendix I.

On December 15, 1982, a draft of this report was provided to the following individuals for their comments:

--The Assistant to the President for Policy Development.

--The Director of the White House Drug Abuse Policy Office.

--The Attorney General.

--The Secretary of the Treasury.

--The Secretary of Transportation.

--The Secretary of State.

--The Secretary of Defense.

--The Director, Office of Management and Budget.

Written comments were received from all of these individuals except the Director, OMB, the Assistant to the President for

Policy Development, and the Director of the White House Drug Abuse Policy Office. We discussed the draft report with officials of OMB.

The agencies' comments have been addressed in the relevant report sections as well as at the ends of chapters 2, 3, 4, and 5. Copies of the agencies' comments are included as appendixes VIII through XII.

CHAPTER 2

DESPITE LARGE INCREASES IN RESOURCES, INTERDICTION RESULTS REMAIN LIMITED

Federal resources devoted to interdiction more than tripled from 1977 to 1982 while funds for other facets of the Federal drug supply reduction program--international drug activities and domestic drug enforcement--have remained relatively constant. The Coast Guard's drug interdiction program comprises the majority of this increase. Despite these increases, however, interdiction results remain limited.

--Cocaine, heroin, and dangerous drug seizures for fiscal years 1977 through 1982 comprised less than 10 percent of the estimated supply of these drugs.

--Less than 20 percent of the estimated marijuana supply was seized over this same time frame.

--Drug price and purity statistics, measures of availability, indicate little change.

--Most individuals arrested in interdiction cases are low-level violators.

--The bulk of those arrested spend less than a year in jail.

Furthermore, because the predominant drug smuggled into the United States by private aircraft and vessels is marijuana, most air and sea interdiction seizures are of marijuana. Most of the other drugs are seized through DEA investigations or Customs port-of-entry inspections.

Joint special projects conducted by two or more agencies have been shown to be the most effective means to attack drug smuggling. Such programs are costly, however, and may have only limited long-term impact.

Even though interdiction resources have increased and more drugs have been seized, more drugs are entering the United States now than entered 5 years ago. Consequently, while the volume and street value of drugs seized are most impressive, the seizures are dwarfed by estimates of the total drugs available.

Current Federal resources have been inadequate to stop or even substantially impair drug smuggling. The Coast Guard

On the other hand, DEA data shows that most of the arrests associated with the Task Force are low level violators. According to DEA statistics, only 5 percent of Task Force arrests are major drug violators (Class I or II). Nationally about 17 percent of DEA arrests are major violators. Several DEA and other agency officials said that, even though the Task Force has caused many traffickers to curtail or move their smuggling operations, it is doubtful whether the Task Force can have any substantial long-term impact on drug availability.

Although the Task Force has been successful, especially in demonstrating the benefits of a cohesive attack on drug trafficking, the overall pervasiveness of the drug problem is demonstrated by the national statistics on drug availability. As pointed out earlier in this chapter, drug price and purity data in 1982 indicates increased availability of most drugs.

INTERDICTION WOULD NEED BILLIONS OF DOLLARS IN ADDITIONAL RESOURCES TO STOP DRUG FLOW

The primary objective of interdiction is to reduce the amount of drugs entering the United States. However, it is generally recognized that current interdiction programs have only a limited impact on drug traffickers. Although estimates of the additional resources necessary to impede the drug flow are difficult to make, officials of the primary Federal agencies involved have stated that the additional resources would be substantial. For example, the Coast Guard has estimated that it would have to seize 75 percent of the marijuana entering the United States before drug traffickers would be driven out of business. The Coast Guard has said it would need $2.3 billion in additional operating funds including 35 new aircraft, and 156 new medium endurance cutters and patrol and utility boats to seize 75 percent of the marijuana coming through the Caribbean. Estimates to seize 75 percent of the cocaine, heroin, and dangerous drugs entering this country are not available, but it would also take billions of dollars.

In commenting on our draft report, the Department of Transportation said that its $2.3 billion estimate to seize 75 percent of the marijuana transiting the Caribbean was no longer current. The Department noted that "* * * the substantial increase in drug trafficking intelligence and the coordination of efforts among law enforcement agencies * * *" has resulted in a revised estimate. Transportation said that

> "Assuming the Coast Guard would have access to timely tactical intelligence, we believe we can essentially deny the seaborne routes to the smugglers and significantly disrupt the maritime trafficking in marijuana for a dollar figure considerably less than previously stated."

However, Transportation did not provide a revised estimate.

The Treasury Department in its response to our draft report said that an effective air interdiction strategy aimed at smuggling by private aircraft could be maintained for less than $30 million per year. The Department said such a strategy is currently being developed in conjunction with the Department of Defense. However, Treasury did not provide estimates of the initial investment costs, the cost of military resources necessary, nor the details of how the additional resources would be used.

CONCLUSIONS

Clearly interdiction plays an important role in the Federal effort to stem the flow of drugs. Interdiction removes drugs from the illicit market, increases the risk to drug traffickers, and discourages some would-be traffickers from attempting drug smuggling.

Increasing the amount of Federal resources over the past few years has increased the amount of drugs seized, albeit without really gaining much on the problem of drugs being readily available. But interdiction alone cannot, and is not intended to, provide the answer to our drug supply problem. The other Federal drug supply reduction thrusts of crop eradication/substitution in the international area and domestic enforcement are vital.

The Federal agencies involved in drug interdiction have seized tremendous amounts of drugs over the years with limited resources. Many important improvements have been and are being made to increase drug seizures. But more needs to be done. These areas are discussed in detail in the following chapters.

AGENCY COMMENTS AND OUR EVALUATION

The Justice Department said, in commenting on our draft report, that we failed "* * * to address the role and limitations of interdiction in the context of the entire Federal drug law enforcement effort." Justice said that interdiction is only one part of the Federal drug strategy and it is unrealistic to expect current drug interdiction programs to eliminate the flow of illegal drugs. Commenting on the limitations of interdiction, Justice said

> "Years of experience have shown that this 'band-aid' approach to controlling illegal drugs--stopping them midway along the delivery chain--is nothing more than a maintenance effort which, standing alone, will never have any permanent effect on drug traffic."

Justice also noted that

> "Unfortunately, the GAO report leads one to believe that the Federal Government should allocate more resources to the interdiction effort as the answer to the drug problem."

We believe our report clearly identifies the limitations of interdiction within the context of the total Federal drug enforcement effort. Chapter 1 identifies all of the components of the Federal drug supply reduction program and the central theme of this chapter is that interdiction results have remained limited despite the substantial increases in resources. And, as discussed in chapter 3, any increases in interdiction resources need to be considered in light of the other Federal drug supply reduction components--international programs and domestic enforcement.

The Justice Department also was very critical in its comments of our failure to include more current data on the South Florida Task Force. Justice pointed out that

> "* * * a most serious shortcoming is the report's failure to concentrate on the South Florida Task Force in assessing the degree of cohesiveness with which interdiction efforts are accomplished."

Subsequent to receiving Justice's comments, we learned that DEA had prepared an assessment of the operations of the South Florida Task Force through December 1982. We requested a copy of the report from Justice, but have not received it. Consequently, we have not been able to recognize in the final report the specific accomplishments of the task force to which Justice alluded in its comments.

CHAPTER 3

PROGRAM FRAGMENTATION LIMITS THE EFFECTIVENESS OF INTERDICTION EFFORTS

The authority and responsibility for Federal drug interdiction efforts are split among three separate agencies in three executive departments. Each agency has different programs, goals, and priorities. And, although the level of cooperation is increasing, especially in South Florida, such fragmentation has a certain amount of inefficiency and interagency conflict built in.

Congressional oversight and resource allocation decisions relative to drug interdiction are extremely difficult under these circumstances. None of the agencies involved identify resources devoted to drug interdiction for budget purposes and very little information is available, either by agency or in the aggregate, to evaluate program results. Aggregate drug seizure statistics are sometimes inflated due to double counting of seizures when there is more than one participating agency, and very little case disposition information on arrestees is maintained.

Under the current division of responsibilities, DEA conducts followup investigations on the Coast Guard's or Customs' arrestees. DEA usually performs followup investigations only if the cases (less than 40 percent of Customs Patrol and Coast Guard cases) will be prosecuted by a U.S. attorney. Consequently, information which could be of value to future investigations is not being obtained on the majority of the interdiction cases.

Fragmentation of Federal efforts has long been recognized as a major problem. To help remedy this situation, Congress passed legislation in 1972 and 1976 that requires the President to direct the development of a comprehensive national drug abuse prevention strategy and to appoint a drug abuse policy coordinator. While various drug strategies have been prepared over the years, the most recent in October 1982, none has adequately defined the various agencies' drug interdiction roles. Furthermore, the drug abuse policy coordinator has never had the authority to manage all Federal drug efforts. The current administration has organized and proposed several new groups to help coordinate Federal efforts to fight the drug problem making it all the more important that someone have clear authority to oversee these efforts.

Additionally, in October 1982, President Reagan announced that he would establish three other groups to help coordinate law enforcement efforts, including drug law enforcement--a Presidential Commission on Organized Crime, a Governors Project, and a Cabinet-level Committee on Organized Crime. At the local level numerous coordination groups have also been established. The addition of the FBI and the Drug Enforcement Task Forces to the drug enforcement effort, as well as the creation of the numerous drug enforcement coordination groups make it all the more important that someone have clear authority to oversee these efforts.

On December 22, 1982, Congress passed a Crime Bill which included provisions to establish an "Office of the Director of National and International Drug Operations and Policy" to manage all Federal drug enforcement programs. President Reagan withheld his approval of this legislation noting that such a drug program manager would create a new bureaucracy in the executive branch and compound the problems of coordination. On February 2, 1983, similar legislation was introduced in the 98th Congress (S-406) to coordinate Federal drug enforcement efforts. Although we have not specifically studied this legislation, we believe that central oversight of Federal drug enforcement, the concept embodied in the legislation, is needed.

CONCLUSIONS

The interdiction component of the Federal drug enforcement program is fragmented. Customs, the Coast Guard, and DEA have different drug enforcement programs, priorities, and goals. Evaluating the benefits of interdiction is difficult because of scanty information on overall interdiction results. Effective congressional oversight of the interdiction efforts is complicated by the separate budget processes of the agencies with drug interdiction responsibilities. Even though DEA is the lead agency for drug enforcement, its share of total drug enforcement expenditures fell from 69 percent in 1977 to 47 percent in 1982. Now Customs and Coast Guard combined expenditures for drug enforcement exceed DEA's expenditures.

Disagreement exists between Customs and DEA over the value of investigating and prosecuting Customs and Coast Guard interdiction cases. More than 60 percent of these interdiction cases are not prosecuted in Federal court and many are not afforded postarrest investigations. The results of the joint DEA-Customs task group in South Florida have shown the value of increased postarrest investigations of interdiction cases and the task group concept will be made permanent in South Florida. However, no decision has yet been made on the policy question of whether the role of Customs should be expanded on a permanent basis in other locations to assist in such investigations.

Drug interdiction programs will remain disjointed unless a strong definitive Federal drug strategy is prepared and implemented. This strategy should address how to combine the separate agencies' programs which have differing priorities and goals into a cohesive Federal drug enforcement effort.

Interdiction difficulties are only one manifestation of a broader coordination problem that we have previously reported on. Clearly the need for drug program coordination and oversight, both with regard to interdiction as well as the total drug enforcement program, has been recognized by the executive and legislative branches of Government. Central oversight of Federal drug control efforts has become more critical with the addition of the FBI to the drug effort and creation of the Drug Enforcement Task Forces. Although the establishment of numerous coordination groups at the national and local levels may improve operational coordination, no one person has the information or responsibility to evaluate Federal drug efforts and recommend corrective actions.

Under the current arrangement there is no mechanism for optimizing the allocation of limited Federal drug enforcement resources. For example, currently no one can determine whether the $179 million spent on marijuana interdiction by the Coast Guard could be used more effectively on the international narcotics control program. One individual must be given the responsibility and authority to plan and oversee all Federal drug law enforcement programs. Such authority, however, should not extend into the direction of each agency's day-to-day operations, because the individual agencies are best capable of managing their particular functions within the context of their overall agency missions.

RECOMMENDATIONS

We recommend that, to develop a reliable information base for evaluating the effectiveness of interdiction program components, the Attorney General and the Secretaries of Treasury and Transportation direct DEA, Customs, and Coast Guard officials to work together to develop a management information system(s) which accumulates interdiction program results such as drug seizures, level of prosecution, and case disposition, and identifies the resources devoted to drug interdiction programs.

To ensure that the Congress is informed of all drug enforcement expenditures, we recommend that the Director, Office of Management and Budget, accumulate budgetary data on drug enforcement costs that are provided by Coast Guard, Customs, and DEA, and submit this information to the Congress concurrent with these agencies' budget submissions.

Recommendations to the President

We recommend that to promote more cohesiveness and central oversight of drug enforcement programs, the President, (1) direct the development of a more definitive Federal drug strategy that stipulates the roles of the various agencies with drug enforcement responsibilities, to include a determination of whether the role of the U.S. Customs Service should be expanded to assist in followup investigations of interdiction cases, and (2) make a clear delegation of responsibility to one individual to oversee Federal drug enforcement programs. Such responsibilities should include:

--Developing and reviewing U.S. Government policy with respect to illegal drugs.

--Coordinating Federal efforts to control the production, halt the flow into the United States, and stop the sale and use of illegal drugs.

--Developing a unified budget that will present a composite picture of all Federal resources being devoted to the drug war and present recommendations for rationalizing these efforts in terms of budgetary priorities.

--Collecting and disseminating information necessary to implement and evaluate U.S. policy with respect to illegal drugs.

AGENCY COMMENTS AND OUR EVALUATION

The Departments of Justice and Transportation supported our recommendation to develop a management information system. The Department of the Treasury did not specifically comment on our recommendation in its entirety. The Department of Justice said

> "Presently DEA's statistical systems are being improved internally (to detect overlap), and resources are already earmarked for 12 new Organized Crime/Narcotics Task Forces to develop compatible systems."

In commenting on the need for data on court results, the Department of the Treasury noted

> "Since Customs is precluded from presenting cases to the U.S. attorneys, tracking arrestees through the judicial process would be, at best, a difficult process and would require the dedication of resources which can better be used in performing our authorized functions."

We believe all three agencies need to work together to develop reliable management information.

The Department of Transportation supported our recommendation to the Director, OMB, to accumulate drug enforcement budgetary data. The other departments and agencies did not comment on this recommendation.

The Department of Justice disagreed with our recommendations to the President that a more definitive Federal drug strategy be developed and that one individual be given the responsibility to oversee Federal drug enforcement efforts. The Department of Transportation agreed with our recommendations to the President and the Departments of State and Treasury did not comment on these recommendations.

The Justice Department in explaining its position said that, although there are areas where coordination and efficiency of Federal law enforcement efforts can be improved, this is being accomplished through existing administrative structures. Justice pointed out that the Cabinet Council on Legal Policy and the White House Office on Drug Policy "* * * are an integral part of the Administration's process by which a coordinated narcotics enforcement policy is carried out." Justice further noted that

> "This process has resulted in the creation of 12 National Task Forces to combat organized crime and narcotics trafficking in the field, which is precisely where the action needs to be focused."

It is obvious to us from the recently established coordination groups and the Drug Enforcement Task Forces that the need for increased coordination has been recognized by the administration. However, the current coordination mechanisms still do not provide a composite picture of all Federal resources devoted to the drug war or a basis for rationalizing these resources in terms of budgetary priorities. The Department of Justice in its comments said that international programs designed to stop "* * * drugs at their source is the single most effective action that can be taken." Yet, over the last 5 years, international drug program expenditures have remained constant, while interdiction expenditures have more than tripled. Giving one individual the responsibility to oversee all Federal drug programs, as we have recommended, would be an extension of the efforts to increase coordination which the agencies have already begun.

An example of why central drug program oversight is still needed was contained in comments on our draft report. Comments by the Departments of Justice and Treasury manifest the continuing difference of opinion on the value of postinterdiction arrest investigations. The Treasury Department said that the followup drug interdiction investigations done in all interdiction cases as a part of the South Florida Task Force "* * * have developed significant cases which have impacted, in a positive way, against drug smugglers and drug trafficking operations." The Treasury Department further noted that the benefits of postinterdiction investigations have "* * * been proven conclusively during the activities of the South Florida Task Force." On the other hand, the Justice Department said that followup investigations are not needed in all interdiction cases. Justice pointed out that

> "The functions of Justice are to investigate and prosecute those cases and traffickers which present the greatest potential impact on drug trafficking."

As noted in our report more than 60 percent of interdiction cases are not afforded followup investigations. An agreement between Justice and Treasury has not been reached regarding the expansion of Customs' drug investigative authority beyond South Florida. A determination of whether Customs' drug investigative role should be expanded needs to be made.

CHAPTER 4

BETTER, MORE TIMELY INTELLIGENCE CAN IMPROVE INTERDICTION

The effectiveness of Federal interdiction efforts depends a great deal on intelligence support capabilities. If accurate, timely intelligence is available on drug smugglers, chances are good that Customs or the Coast Guard can make the interdiction. Statistics on the use of prior intelligence to support interdiction, as well as certain special projects, indicate the value of good, timely intelligence.

Drug source and transit countries are valuable sources of intelligence that can be used to support interdiction efforts. Since Customs and the Coast Guard do not have the authority to gather intelligence data overseas, they must rely on DEA to provide this intelligence. DEA's foreign intelligence program, however, does not place a high priority on developing intelligence that can be used to support interdiction efforts. A much stronger interdiction intelligence program is needed in the Caribbean. Neither DEA nor the State Department has developed an adequate international program in the Caribbean to support interdiction.

DEA, Customs, and the Coast Guard all have domestic intelligence programs, but information gathering as well as processing and analysis are uncoordinated and sometimes duplicative. Some intelligence processing and analysis has been centralized at the El Paso Intelligence Center (EPIC). EPIC can be more effective if better supported and utilized by the agencies involved in drug interdiction. Moreover, certain Customs and Coast Guard intelligence analysis functions should be transferred to EPIC.

INTELLIGENCE IMPROVES INTERDICTION'S EFFECTIVENESS

Having prior tactical intelligence[1] about the time and place drug shipments are to take place greatly improves an agency's ability to interdict. Such instances, however, are rare. More often tactical intelligence gathering consists of

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[1] Tactical intelligence provides the identification of specific traffickers and their methods of operation. This is distinguished from strategic intelligence which provides a situation overview and information on the magnitude of the problem.

Staff assigned to EPIC 1978-1982

Agency	1978	1979	1980	1981	1982
DEA	52	63	61	60	60
INS	18	21	22	20	18
Coast Guard	6	6	6	6	6
Customs	11	12	9	9	10
ATF	2	2	2	2	2
FAA	1	1	1	1	1
U.S. Marshals	0	0	1	1	1
FBI	0	0	1	1	1
IRS	0	0	0	1	1
Total	90	105	103	101	100

EPIC officials said that the limited staff causes delays in entering data into computerized files and hampers effective analysis of information. We believe that participating agencies need to assign additional staff to EPIC.

CONCLUSIONS

An analysis of drug seizure cases and special projects demonstrates the value of intelligence in aiding interdiction. Tactical intelligence developed from drug source and transit countries is especially helpful to the interdiction agencies, but the responsibility for developing this intelligence rests with DEA, not with the Coast Guard or Customs.

Tactical intelligence support from overseas has been limited, especially from the important Caribbean drug transit area. Neither DEA nor the Department of State has put much emphasis on developing an international narcotics program in the Caribbean. Both agencies believe their limited international drug resources should be focused on drug source countries such as Colombia, where resources can be devoted to stopping drugs where they originate. We recognize that resources are limited and that an increase in staff in the Caribbean may well require a concomitant decrease in staff currently devoted to drug source programs in Latin American countries. However, we believe that such a reallocation of resources is warranted in light of (1) the growing importance of the Caribbean as a transhipment point for drugs destined for the United States and (2) the commitment of the Federal Government to reduce the drug supply through interdiction.

EPIC has proved to be a valuable aid to drug interdiction. EPIC can be an even more valuable resource if participating agencies provide all information they have on smuggling activity to EPIC. In addition, the Customs Office of Border Operations drug analysis function and the Coast Guard's Atlantic Area marine drug intelligence function should be transferred to EPIC in order to centralize all such intelligence functions and avoid duplication of effort. Also, EPIC needs additional staff.

RECOMMENDATIONS

In view of the Federal Government's strong commitment to reduce drug smuggling, the importance of intelligence to support drug interdiction efforts, and the growth of the Caribbean as a major drug transit area, we recommend that

--the Attorney General direct the Administrator of DEA to review current overseas staffing to determine whether additional personnel could be reassigned and used more effectively in the Caribbean.

--the Secretary of State prepare a Narcotics Assessment and Strategy Paper and, if it is found to be warranted, follow up with projects designed to aid interdiction efforts.

We recommend that, to improve overall coordination of interdiction intelligence activities and strengthen the quality of that intelligence:

--The Attorney General and the Secretaries of Treasury and Transportation (1) direct DEA, Customs, and Coast Guard units to recognize the importance of promptly reporting all information on drug smuggling to EPIC and (2) provide additional staff to EPIC.

--The Secretary of the Treasury direct the Commissioner of Customs to transfer to EPIC the drug intelligence analysis activities in the Office of Border Operations that are similar to those at EPIC and assign the staff necessary to carry out such activities.

--The Secretary of Transportation direct the Commandant of the Coast Guard to transfer to EPIC the marine drug intelligence activities at the Atlantic Area Command.

AGENCY COMMENTS AND OUR EVALUATION

The Departments of Treasury, Transportation, Justice, and State pointed out in their comments that development of intelligence is extremely important to a successful interdiction program. However, some of those agencies disagreed on how to improve the intelligence programs.

Concerning our recommendations to strengthen the interdiction intelligence programs in the Caribbean, both the Departments of Justice and State said the Caribbean area was supported by staff and programs from areas bordering the Caribbean. On the other hand, both the Customs Service and the Coast Guard, in their comments, stressed the need for additional interdiction intelligence, especially from the Caribbean. The Treasury Department said in its comments that DEA's "* * * overseas priorities and commitment of intelligence resources is obviously not related to border interdiction."

The State Department commented that a strategy paper outlining assistance to the Caribbean region was prepared in 1981 and is currently being revised on the basis of a regional drug control conference which was held in October 1982. State also provided a copy of the strategy paper with its comments. We believe that this document and conference represent positive steps for developing a drug control program in the Caribbean. However, we still believe that given the importance of the region to interdiction, a formalized Narcotics Assessment and Strategy Paper is needed that includes clearly defined long- and short-term goals, specific projects aimed at those goals, and quantifiable criteria for evaluating project progress. The strategy paper State provided does not contain the detail- and action-oriented plans of a formal Narcotics Assessment and Strategy Paper.

In their comments, all of the agencies recognized the value of EPIC as a central clearing house of interdiction intelligence which can correlate information from many sources. Both the Department of Transportation and Treasury said that EPIC should be strengthened. The Justice Department said 10 new special agent positions had been assigned to EPIC and steps have been taken to increase DEA analysts positions. Treasury said that 2 additional Customs analysts were being recruited for assignment to EPIC.

The agencies did not agree, however, on the transfer of certain intelligence functions to EPIC. The Department of

Transportation said that it did not concur with our recommendation to transfer the photo-intelligence program to EPIC, noting that the program involves only part of the time of one staff member. The Justice Department, however, supported the transfer of the this function to EPIC. Treasury, noting that Customs' intelligence analysts do not deal exclusively with drugs, disagreed with our recommendation to transfer some of Customs' Office of Border Operations intelligence analysis functions to EPIC. Justice said that it opposed transferring any strategic intelligence function to EPIC, but it did not specifically comment on the transfer of the types of Customs intelligence analysis functions we identified in our report.

We recognize that each of the agencies should maintain separate strategic intelligence activities. However, we believe that the drug interdiction intelligence programs of all agencies will benefit by concentrating at EPIC those intelligence and analysis functions that are similar and that relate specifically to drug interdiction.

In response to our recommendation that DEA, Customs, and Coast Guard provide all interdiction intelligence to EPIC, the Department of Transportation said that the Coast Guard is already sending all vessel sighting and drug seizure information to EPIC. The Departments of Justice and Treasury did not comment on this recommendation.

CHAPTER 5

THE MILITARY HAS BECOME MORE INVOLVED IN AIR-SEA DRUG INTERDICTION EFFORTS

The military departments have provided some limited assistance to drug enforcement agencies over the last several years. Changes to the Posse Comitatus Act in December 1981, which further defined the extent of allowable military involvement in support of civilian law enforcement, have resulted in a greater role for military resources in drug interdiction. Military assistance, however, is necessarily limited because

- --major long-term commitments of military assistance can adversely affect the military's primary mission;
- --operation of military equipment is expensive and, for the most part, reimbursement is beyond the financial capabilities of law enforcement agencies; and
- --concern exists within the military establishment that classified information on military systems might be required to be disclosed in court, thus raising the potential for compromising national security.

Initially, after enactment of the amendments to the Posse Comitatus Act, law enforcement agencies independently requested military assistance with little coordination among themselves. The result was some poorly planned projects that did not make the most of military resources. Coordination is critical in this area because military assistance is costly, not only from a financial point of view, but also in terms of its potential impact on national security. To better coordinate future projects, officials of the Department of Defense and law enforcement agencies formed a special group to discuss all military assistance requests from law enforcement agencies.

POSSE COMITATUS LIMITED MILITARY ASSISTANCE TO LAW ENFORCEMENT

Although in the past the Armed Forces provided some assistance to drug law enforcement efforts, the scope of this assistance was limited by the Posse Comitatus Act. Due to ambiguities in this act regarding the allowable scope of military involvement in civil law enforcement operations, the enforcement. These officials noted that, if a judge would allow a defense attorney to reveal the capabilities of the system in court, they would recommend that the U.S. attorney drop the case.

Similar concerns were noted with regard to the use of the Navy's E-2C aircraft for drug interdiction as a part of Customs Project Thunderbolt. The Customs proposal for the project noted:

> "If at anytime [sic] during the judicial process it appears that the Government will be ordered to reveal E-2C participation, Customs will request that the U.S. Attorneys' [sic] Office initiate dismissal of the charges."

REQUESTS FOR MILITARY ASSISTANCE ARE NOW MORE COORDINATED

Encouraged by the December 1981 changes to the Posse Comitatus Act, law enforcement agencies began requesting military assistance for a variety of drug interdiction activities. Unfortunately, in some instances these requests were neither well planned nor coordinated among the various law enforcement agencies resulting in inefficient projects. Subsequently, a committee comprised of DOD, Customs, Coast Guard, and DEA officials was established to coordinate requests for military assistance.

As was pointed out earlier in this chapter, law enforcement agencies have requested a variety of equipment from the military to assist in their drug interdiction efforts. Some of these requests have not been adequately planned or coordinated. For example, Customs' Operation Thunderbolt air interdiction project conducted from October through November 1981 utilized airborne radar coverage provided by the Navy's E2-C's. The E2-C's were used to detect and track suspect drug smuggling aircraft entering South Florida. As was noted earlier, Customs was charged $796,000 for the E2-C's on this project. During the same time period, DEA and Coast Guard were conducting a Caribbean marine interdiction project: Project Tiburon. When planning Project Tiburon, DEA and the Coast Guard had requested the Navy to provide airborne radar coverage to detect drug smuggling vessels, but when the Navy said such coverage would cost about $800,000, DEA and the Coast Guard decided against the assistance.

Navy officials told us that the E2-C aircraft had the capability to detect both air and sea targets and could have been used for both projects. Officials at DEA and EPIC said they were not aware of Customs plans to use the E2-C's in Project Thunderbolt until "a few days" before the project commenced. Although the projects were not conducted in exactly the same location, the coverage provided by many of the Project Thunderbolt E2-C flights could have aided the DEA-Coast Guard Operation Tiburon III. For example, 34 of the 70 vessel seizures in connection with Operation Tiburon III were made either off the coast of Florida or in the Bahamas, areas that were frequently covered by the E2-C's in Project Thunderbolt.

Customs in its response to our draft report, said the E2-C "was not all that effective in detecting and tracking small vessels of 30 feet and under." Despite this limitation, the E2-C would still be valuable to detect vessels for the Coast Guard. More than 80 percent of the vessels Coast Guard seized in 1981 were longer than 30 feet.

Another example of an inadequately planned and coordinated request for military assistance involved the air interdiction portion of the South Florida Task Force. As in Project Thunderbolt, E2-C's were used to detect air smugglers entering Florida. From March 15 through June 30, 1982, Navy E2-C's flew 435 hours at a cost of more than $715,000 and Navy E-2B aircraft flew 129 hours at a cost of more than $82,000.

These expensive resources were deployed with little planning or coordination. In addition to not using E2-C's for concurrent air and sea drug smuggler detection, the project managers did not assess existing radar facilities before deciding to use these Naval aircraft. Some low altitude radar coverage of South Florida is available from the Air Force's balloon-borne radar facility in the Florida Keys. This facility--named Seek Skyhook--provides low altitude radar coverage of much of the air smuggler threat corridor in South Florida. For example, nearly three-fourths of the air interdictions during Project Thunderbolt were in the coverage area of Seek Skyhook. The Air Force has since agreed to provide Seek Skyhook radar coverage without reimbursement.

These two examples demonstrate that as a result of poor planning and coordination, valuable military resources were not used to their full advantage and interdiction was less effective than it could have been. In addition to poor planning, the projects were implemented without an agreement on who was going to pay for the military assistance.

Concerned about this lack of coordination and planning, the Joint Chiefs of Staff noted in a March 1982 memorandum to the Deputy Assistant Secretary of Defense that:

> "There must be a central civil authority which assimilates and coordinates all requests to DOD for assistance to civil law enforcement agencies. A decision on the source of funding must be reached, as the military departments have not budgeted for these operations."

In response to this concern a committee comprised of Coast Guard, DEA, Customs, and DOD officials was formed to discuss requests for military assistance. The group has met monthly and has discussed both long-term plans and specific requests for military assistance.

CONCLUSIONS

The military can provide valuable assistance to law enforcement in the area of air and sea interdiction, with certain limitations. The recent amendment to the Posse Comitatus Act has made such assistance much more frequent. Initially, requests by law enforcement agencies were inadequately planned and coordinated, resulting in projects that were less effective than they could have been. The formation of a DOD-law enforcement agency group should ensure better planned projects and more efficient use of military equipment in the future.

AGENCY COMMENTS AND OUR EVALUATION

The Department of Defense, in its comments on our draft report, agreed with all of our conclusions concerning military assistance for drug enforcement. The Customs Service said that the negative tone concerning the lack of coordination between agencies in requests for military assistance was inappropriate in view of the establishment of a military assistance coordinating committee. The Departments of Justice and Transportation did not comment on the conclusions contained in this portion of the report.

122747

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

GENERAL GOVERNMENT
DIVISION

B-209887

NOVEMBER 2, 1983

The Honorable William J. Hughes
Chairman, Subcommittee on Crime
Committee on the Judiciary
House of Representatives

Dear Mr. Chairman:

Subject: The Coordination of Requests for Military Assistance to Civilian Law Enforcement Agencies (GAO/GGD-84-27)

This responds to your request that we provide operational information on the Federal Coordination Group for Drug Interdiction. Your request was made July 28, 1983, during hearings held by your Subcommittee on military cooperation with civilian law enforcement agencies. In subsequent discussions, we agreed to provide information, such as membership, meeting locations, and agendas, on the Coordination Group and on the committee within the Vice President's National Narcotics Border Interdiction System (NNBIS). We also agreed to determine and report on whether an overlap of jurisdiction exists between the groups and on the number of requests for military assistance from state and local governments.

The Federal Coordination Group for Drug Interdiction, which we referred to in our testimony, was established to coordinate requests from civilian law enforcement agencies for military assistance on drug related matters but was terminated before NNBIS was formed. Therefore, overlapping jurisdiction did not exist. Although other existing law enforcement coordinating groups may also have reason to discuss military assistance from a broad perspective, NNBIS is exclusively responsible for coordinating requests by civilian law enforcement agencies for military assistance relating to drug smuggling into the United States.

During the first three quarters of fiscal year 1983, state and local agencies made 121 requests for assistance to the Air Force and Navy. The Army did not distinguish in its report between requests from state and local agencies and requests from federal agencies.

To respond to your request, we interviewed officials of the Customs Service, the Drug Enforcement Administration (DEA), the Department of Defense (DOD), and NNBIS in their headquarters offices in Washington, D.C. We also reviewed minutes of meetings and mission statements to the extent that they were available. We obtained DOD statistical data on the number of instances of military assistance to state and local civilian law enforcement authorities, but we did not independently verify the data. Our review was conducted during August 1983 in accordance with generally accepted government auditing standards.

THE CONGRESS APPROVED INCREASED MILITARY ASSISTANCE FOR CIVILIAN LAW ENFORCEMENT

Although the Armed Forces provided some assistance to drug law enforcement efforts before December 1981, this assistance was limited by the Posse Comitatus Act. The act's ambiguities regarding the allowable scope of military involvement in civil law enforcement operations caused the military departments to be very cautious in providing assistance.

Desiring greater military involvement in stemming the drug flow, the Congress passed and the President signed the Posse Comitatus Amendment of 1981 on December 1, 1981. This legislation further defined the extent of military cooperation allowed under the act. One of the significant contributions of the amendment was its encouragement of both civilian and military authorities to think in terms of cooperative efforts and to meet regularly to plan cooperative programs that recognized law enforcement needs and military capabilities.

To implement the amendment, the Deputy Secretary of Defense issued guidelines on March 22, 1982, establishing DOD policies and procedures concerning assistance to federal, state, and local law enforcement efforts. This included

--coordinating with civilian agencies on long range policies to further DOD cooperation with civilian law enforcement officials,

--providing information to civilian agencies to facilitate their access to DOD resources, and

--coordinating with the Department of Justice, Customs Service, and Coast Guard on matters related to the interdiction of the flow of illegal drugs into the United States.

FEDERAL COORDINATION GROUP FOR DRUG INTERDICTION NO LONGER EXISTS

In March 1982, about the same time that DOD promulgated its guidelines on assistance to law enforcement agencies, a civilian ad hoc coordinating committee known as the Federal Coordination Group for Drug Interdiction was formed to promote coordination of requests for military assistance and to identify how military assistance could best be used for drug interdiction. Initially, membership consisted of representatives from the Coast Guard, Customs Service, and DEA. A DOD representative later joined the group in June 1982 after the civilian agencies had reached some tentative agreements as to the nature and extent of military assistance needed. No one person headed the group, and the agenda was established by consensus. We were told that future meeting dates were set at each meeting, and the minutes of the meetings showed that the meeting site was rotated among the members.

The coordination group apparently discontinued meeting near the end of calendar year 1982. We found no documentation of meetings beyond October 1982, although some members told us they remember attending meetings in November and/or December. The officials we interviewed were uncertain as to why the group was terminated or the specific termination date.

NNBIS HAS RESPONSIBILITY FOR COORDINATING MILITARY ASSISTANCE FOR DRUG INTERDICTION

NNBIS became operational in June 1983 and is responsible for coordinating requests for military assistance for drug interdiction. As such, it is designed to coordinate the work of those federal agencies with existing responsibilities and capabilities for interdiction of seaborne, airborne, and cross-border importation of narcotics. Other groups may also get involved in coordinating military assistance. These groups, however, are concerned with broad policy issues, information sharing, and common problem solving, not with military assistance for drug interdiction, as is the case with NNBIS.

NNBIS is headed by the Vice President and has executive and coordinating boards and six regional centers. The nine member executive board includes the Vice President and several cabinet and other high level federal officials and is responsible for establishing policy. The coordinating board comprises 16 high ranking officials from the Departments of State, Defense, Treasury, Justice, Transportation, and the Central Intelligence Agency (CIA), as well as their subordinate agencies and offices. (See enclosure I.) This board is responsible for recommending policy to the executive board and carrying out the executive board's established policies. The regional centers have a coordinator and deputy coordinator from either Customs or Coast Guard and a staff of 20 to 30 professionals assigned from various agencies, including the FBI, DEA, Customs, Coast Guard, DOD, CIA, Federal Aviation Administration, and Immigration and Naturalization Service.

NNBIS officials told us that both boards are expected to meet quarterly in Washington, D.C. As of September 9, 1983, each board had met three times, but there were no formal records made of the meetings.

REQUESTS FOR MILITARY ASSISTANCE

We obtained statistics from the Air Force and the Navy on requests for assistance provided to state and local law enforcement agencies. We were unable to determine DOD-wide statistics on assistance to state and local agencies, however, because the Army does not report the source of requests it receives for military assistance. An Office of the Secretary of Defense (OSD) official told us that OSD was aware of inconsistencies in the types of data reported and was revising the guidance to the services to assure that data are reported consistently.

According to OSD statistics for the first three quarters of fiscal year 1983, the Air Force, Army, and Navy approved 436 of the 456 requests they received from federal, state, and local law enforcement agencies for military assistance. The Army did not report on the sources of requests for assistance; however, the Air Force and the Navy reported that they received 121 requests from state and local agencies and approved 116 of them. The sources of requests approved by the Air Force and Navy for the first three quarters of fiscal year 1983 were as follows:

Source	Number of requests approved	Percent of total
Federal	149	53.8
State	22	8.0
Local	94	33.9
Combined federal, state and/or local groups	12	4.3
Total	277	100.0

Assistance provided by the military was for many different law enforcement activities. We could not readily determine how much related to drug enforcement. The types of assistance have also varied. For example, an explosive detector dog team was given to a local police department to search a building because of a bomb threat. Training was given to state narcotics agents to operate and monitor air surveillance radar and to receive information from Air Force controllers concerning suspicious aircraft within their airspace. In another instance, a Navy aircraft was used to assist Customs in surveillance for drug interdiction.

* * * *

As requested by your office, we did not obtain agency comments on the matters discussed in this report. As arranged with your office, we will be sending copies of this report to DEA, OSD, Customs, and NNBIS. Copies will be made available to other interested parties who request them.

We hope the above information responds to your concerns. Please let us know if we can be of any other assistance.

Sincerely yours,

W.J. Anderson

William J. Anderson
Director

Enclosure

MEMBERS OF THE NATIONAL NARCOTICS BORDER INTERDICTION SYSTEM

Executive Board

The Vice President
Secretary of State
Secretary of the Treasury
Secretary of Defense
The Attorney General
Secretary of Transportation
Counsellor to the President
Director of Central Intelligence Agency
Director, Drug Abuse Policy Office

Coordination Board

Chief of Staff to the Vice President, Chairman
Secretary of the Army
Secretary of the Navy
Secretary of the Air Force
Commandant of the Coast Guard
Deputy Director, Central Intelligence Agency
Assistant Attorney General, Criminal Division
Director, FBI
Assistant Secretary of State for International Narcotics Matters
Assistant Secretary of the Treasury for Enforcement
Commissioner of Customs
Commissioner, Immigration & Naturalization Service
Administrator, DEA
Administrator, Federal Aviation Administration
Acting Director, Bureau of Alcohol, Tobacco, and Firearms
Deputy Director, Drug Abuse Policy Office

BY THE U.S. GENERAL ACCOUNTING OFFICE

Report To The Honorable Joseph R. Biden, Jr. United States Senate

Organized Crime Drug Enforcement Task Forces: Status And Observations

President Reagan established the Organized Crime Drug Enforcement Task Force program in October 1982. The goal of the program is to disrupt high-level drug trafficking organizations by devoting more federal resources to the investigation and prosecution of these organizations and by coordinating and integrating federal investigations and prosecutions of selected cases.

As of September 1983, approximately 1,200 attorneys and agents were conducting about 300 investigations throughout the country. It is too soon to determine if the task forces will achieve their objectives. This report provides information on the planning and management of the task forces and identifies potential issues for program evaluation.

GAO/GGD-84-35
DECEMBER 9, 1983

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

GENERAL GOVERNMENT
DIVISION

B-212966

The Honorable Joseph R. Biden, Jr.
United States Senate

Dear Senator Biden:

In your February 16, 1983, letter, you requested information on the newly established Organized Crime Drug Enforcement Task Force Program to assist you in reviewing the program's progress. Our objectives were to provide information on the planning and management of the program and to identify potential issues which should be considered in future evaluations of the program's success. To respond to your request, we interviewed officials and collected information at 1) the Washington headquarters of the participating agencies, including the Task Force Administrative Unit, Federal Bureau of Investigation, and Drug Enforcement Administration in the Justice Department; and the Internal Revenue Service, U.S. Customs Service, and Bureau of Alcohol, Tobacco and Firearms in the Treasury Department, and 2) task force offices in Boston, Chicago, Detroit, San Francisco, and Baltimore.

Because the task force program was new at the time of our review, our work was limited to gathering information and identifying issues which may affect the program's success in the future. We did not attempt to evaluate the program's effectiveness at this early stage. However, we expect to review the effectiveness of the task forces when the program is far enough advanced to make an evaluation feasible. We conducted our field work on this assignment during the period March through September 1983.

PROGRAM ORGANIZATION

On October 14, 1982, President Reagan announced the formation of 12 Organized Crime Drug Enforcement Task Forces, covering all of the country except for South Florida, where a federal drug task force had previously been established in February 1982. A map of the 12 regions covered by the task forces and the regional headquarters cities is presented in appendix II, and a list of the agencies participating in the task force is shown in appendix III. The goal of the new task forces is to disrupt high-level drug trafficking organizations by (1) devoting more federal resources to the investigation and prosecution of high-level organizations and (2) improving coordination and integrating the activities of federal investigative and prosecutive agencies on selected cases. In particular, the task forces are to make maximum use of financial investigative techniques. Although the program adopted the multiagency cooperative approach developed in the South Florida Task Force, the programs are dissimilar. The major difference between the new task forces and the South Florida Task Force is that South Florida places more emphasis on drug interdictions: preventing illegal drugs from entering the United States, seizing drugs as they enter, and arresting drug traffickers. The new task forces focus on the leaders of large organizations that control drug importation and distribution networks.

Task force operations are planned and coordinated through a network of committees representing participating agencies, under the general direction of the Associate Attorney General. (See app. IV.) At the national level, a working group composed of representatives of participating agencies and chaired by the Associate Attorney General formulates general policy and monitors the program. The group is assisted by a small administrative unit in the Justice Department headed by the national task force program administrator. The working group selected the headquarters cities and participating districts in the 12 task force regions, based on an assessment of major pressure points for drug trafficking.

In each of the 12 regions, the U.S. attorney in the regional headquarters or "core" city manages task force operations through a regional coordinating committee known as the Task Force Coordination Group. The coordination group approves and monitors all task force investigations in the region to ensure that investigations are consistent with program goals and objectives and that adequate interagency coordination takes place. The core city U.S. attorney designates the group coordinator (an assistant U.S. attorney), and each participating investigative agency designates a full-time agency coordinator. The U.S. attorney is accountable to the Associate Attorney General for the operations of the task force but has direct authority only over the attorneys from his office. Each participating agency maintains supervisory control over its own staff.

Individual task force cases are investigated and prosecuted by multiagency teams in the judicial districts within the region. In each of the judicial districts which makes up the region, the local U.S. attorney heads a district drug enforcement coordination group, which includes senior agents from each particpating agency office in that district. (In the regional "core" city judicial district, the Task Force Coordination Group performs this function.) The district coordination group coordinates task force investigations and prosecutions among participating federal agencies and with state and local law enforcement agencies.

Agents and attorneys involved in individual task force cases remain under the direct supervision of their respective agencies but conduct investigations jointly with other task force agents and attorneys. Leadership responsibility for specific cases is decided on a case-by-case basis, and could be assumed by an assistant U.S. attorney or by one of the agencies. The intent of this organizational approach is to preserve individual agency accountability and authority, while facilitating joint agency involvement in selected investigations. It is important to recognize that the task forces are only part of the federal drug enforcement effort and that the task forces do not coordinate all federal drug enforcement activities.

PROGRAM FUNDING

The fiscal year 1983 appropriation for the task force program was $127.5 million of which $18 million was to remain available until expended for the construction, remodeling, and equipping of detention and correctional institutions. The appropriation funded salaries and personnel support costs for an increase in investigative and prosecutorial staff. It also funded support for other drug law enforcement-related needs of participating agencies, such as electronic communications and surveillance equipment, undercover operations, automatic data processing systems, purchase of evidence, and the purchase of an airplane for the Drug Enforcement Administration. (See app. V.) The Justice Department estimates that the program obligated approximately $112 million in fiscal year 1983. Approximately 41 percent of the funds were obligated for task force salaries and direct personnel support costs. Of the unspent funds, the President deferred until fiscal year 1984 $12 million of the $18 million for expansion of the Federal Prison system. Also, under authority provided by the Supplemental Appropriations Act of 1983, Public Law 98-63, $2 million for FBI undercover operations and $1.4 million for Drug Enforcement Administration automatic data processing systems were carried over through fiscal year 1984.

PROGRAM STAFFING

The Attorney General made the initial allocation of staff among the participating agencies on the basis of proposals from the agencies and U.S. attorneys. The total staff allocation was 1,606 positions, including 1,219 agents and attorneys and 387 support staff. (See app. VI.) The support staff include paralegals who assist U.S. attorneys and researchers assigned to the

Treasury Law Enforcement Center who analyze financial transactions suspected to be drug related. The number of agents and attorneys assigned to each task force ranged from a high of 151 assigned to the New York-New Jersey region to a low of 58 assigned to the Mountain States (Denver) region. Nine attorney positions were allocated to three judicial districts in Florida, although Florida is not officially included in the task force program. Approximately half the field professional staff were assigned to the core cities in 13 districts[1] and half to 59 other districts included in the regions. (See app. VII.) The remaining 22 judicial districts did not receive any designated task force staff positions. The mix of agencies represented in the various judicial districts varies widely (see app. VIII). Twenty-three districts have representatives from all participating agencies and the U.S. attorney, while 10 districts only have U.S. attorney representation.

As of September 1983, approximately 96 percent of 1,219 professional task force positions had been filled with experienced agents and prosecutors. Of an equal number of new positions created in the agencies, approximately 82 percent had been filled with new hires by September. (See app. IX.) We could not determine to what extent the total number of staff days devoted to drug enforcement activities by the participating agencies increased from fiscal year 1982 to 1983 because of lack of consistent baseline data for fiscal year 1982 and because of fluctuations in staffing levels throughout the start-up phase of the task force program. However, the number of experienced staff assigned to task force cases represents an increase in the level of effort devoted to multiagency investigations and prosecutions of high-level drug trafficking organizations.

CASE SELECTION

The initial task force cases were identified by the agencies and U.S. attorneys. The national task force administrator in the Department of Justice reviewed proposed cases to ensure they required multiagency participation and were not close to indictment. No specific quantitative criteria for size of organization or volume of drugs involved were set, beyond the general goal of attacking high-level drug trafficking organizations. However, the program guidelines stated that the types of organizations to be targeted should include traditional organized crime groups and organizations importing and/or distributing or financing large amounts of drugs. Major outlaw motorcycle gangs, prison gangs, street gangs and physicians or pharmacists illegally dispensing substantial quantities of prescription drugs were also listed as potential targets.

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[1] The New York Task Force has two core cities, one in each of the two federal judicial districts of New York City. There are 94 federal judicial districts nationwide.

Initially headquarters approved 260 cases from investigations already in progress at the participating agencies. All subsequent cases have been selected and approved at the regional level. The number of task force cases under investigation as of September 1983 was approximately 300. According to Department of Justice officials, 425 cases had been initiated by November 16, 1983, and 183 indictments had been returned against 1,028 defendants. In general, we found that the initial task force cases involve multiple investigative agencies and are targeted at the types of organizations listed in the guidelines. Over half of the initial cases involve agents from three or more investigative agencies, and approximately three-fourths involve both Treasury and Justice agents. Thirty-six percent of the initial cases had state and/or local participation.

PROGRAM EVALUATION ISSUES

In future evaluations of the task force program, we believe that three issues will be particularly relevant. First, will the program structure, including the program's relationship with other drug enforcement activities, and the distribution of personnel enable the task forces to achieve their objectives? Second, what effect will task forces have on the operations of high-level organizations? Third, will the disruption of organizations reduce the supply of drugs? Each issue presents measurement problems. The Department of Justice is collecting data to monitor task force progress but at the time of our review had not fully designed its evaluation program.

Program structure and personnel distribution

Monitoring personnel distribution, case selection, coordination of investigations, and integration with other drug enforcement activities will be a key task in evaluating the program. Representation of agencies on cases, size of cases, time dedicated to cases by participating agencies, and coordination with other drug enforcement efforts can be monitored by the agencies and by the Justice Department. However, since task forces have a high degree of flexibility in carrying out their activities, uniform standards to measure these characteristics may be difficult to develop. Given the program's decentralized structure, the Justice Department may only be able to monitor the task force operations on an exception basis, as problems occur. If the Department finds significant patterns of interagency conflict, loss of dedicated staff, and unacceptable variations in case quality and size, it may need to consider revisions in the organizational structure and/or more specific case selection criteria. In reviewing task force operations, the following issues may require specific attention.

Program structure: The organization of the task forces was based on the premise that multiagency efforts were required to investigate high-level drug trafficking organizations, but that this would work most effectively if each agency retained its own identity. Agencies maintained direct supervisory control over their agents and the investigative techniques they would use. The role of the task force was to ensure that each agency worked effectively with the others in joint investigations. A potential problem with this approach is the possible lack of cohesiveness and direction. This could occur because no one agency or attorney has primary responsibility to direct the cases, and because it may not be clear who will oversee a particular investigation. On the other hand, the maintenance of agency authority and control could also result in a stronger commitment to the program, better access to information and additional resources, and more effective interagency communications.

Distribution of personnel: The 1,219 agent and attorney task force positions are distributed among 72 judicial districts, half in the 13 core city judicial districts and half in the other 59 districts. The wide distribution of resources has the potential advantage of spreading the task force concept and impact and providing improved intelligence linking of organizations under investigation. However, it also could result in a dilution of task force resources, increased difficulty in monitoring task force activities, and inconsistency in the size of organizations being investigated.

Coordination with other drug enforcement activities: Coordination between the task forces and other federal, state, and local drug enforcement activities is clearly important to the success of the task forces and drug law enforcement in general. Procedures for such coordination have not been specified in task force guidelines, and individual task forces have been allowed to develop their own coordinative procedures.

Coordination with state and local drug enforcement is primarily focused on their participation in individual cases. Overall coordination of drug enforcement efforts in the regions is currently not a priority. If task force involvement in comprehensive planning is desired, program guidelines may need to be clarified to emphasize this role.

In addition, the task forces co-exist with other federal drug enforcement efforts, including the Organized Crime Strike Forces, National Narcotics Border Interdiction System, and other investigations by participating agencies. Coordination with these efforts is to be achieved through each agency's representatives on the task force coordination groups. Both the Strike

Forces and the Coast Guard have also established liaison with the task forces. Monitoring of these coordinative efforts will be needed to assure a cohesive and coherent approach to drug law enforcement.

Effect of task force investigations on drug trafficking organizations

The most feasible and practical focus for evaluation of the task force program may be to measure program results in terms of successful multiagency investigations and consequent successful prosecutions of high-level drug trafficking organizations. Such a focus should incorporate a review of the size and quality of the cases and the contributions of participating agencies.

The success of an investigation cannot be readily measured by the traditional indicators such as numbers of arrests and amounts of drugs seized. Task force cases quite likely will not produce large numbers of defendants or large-scale drug seizures, because leaders of major trafficking organizations are not apt to be found at the scene where money is being exchanged for drugs. The task forces should produce cases against relatively small numbers of important trafficking figures, plus large forfeitures and seizures of illegally acquired assets.

U.S. attorneys and coordinators we interviewed offered the following suggestions as measures of task force results:

- --The number of convictions and amounts of financial assets seized under the Continuing Criminal Enterprise statute (21 U.S.C. 848)[2] and the Racketeer Influenced and Corrupt Organization statute (18 U.S.C. 1961)[3] would indicate that heads of criminal organizations were being pursued and that both financial and traditional drug investigative approaches were being used.

- --The use of multiple charges against different levels of an organization would contribute to dismantling that organization and could also show agency coordination.

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[2] Under the Continuing Criminal Enterprise statute, the trafficker must be a person who occupies a position of authority over five or more people in the conduct of a series of drug violations from which substantial income is derived.

[3] The Racketeer Influenced and Corrupt Organization statute generally prohibits a person from acquiring or participating in an enterprise through a pattern of racketeering activity and from investing income from such activity in an enterprise.

- --The number of cases pursued across district lines would indicate coordination of efforts to dismantle total organizations.
- --The actual contribution of agencies to the investigation and the impact of the investigation on the organization would indicate the effect of joint investigations.

The identification of the contributions made by participating agencies and the degree of coordination among the agencies is complex. All the participating agencies plan to track task force activities through their normal reporting systems. Thus, they will collect data on task force cases similar to that which they collect on other drug enforcement efforts. These data focus mainly on numbers of arrests and convictions and amounts of seizures. Furthermore, the fact that every agency records every accomplishment in every case in which it participated means that there may be double or even triple counting of results in multiagency investigations. Field staff we interviewed expect some degree of double counting of task force results under agency reporting systems, although headquarters officials said that separate task force reporting to the Department of Justice will solve the problem by consolidating agency data.

The Department of Justice will prepare an overall evaluation of the program for its annual report due in March 1984. Task forces are submitting information which will be used to track cases from initiation to closure including statistics on arrests and seizures of drugs and assets. However, standards against which case size and individual agency contributions to multiagency investigations are to be measured had not been developed at the time of our review.

Impact on the Supply of Drugs

Measuring the impact of the task force program on the supply of drugs may not be a feasible task. Although indicators of drug supply are one measure of the effect of the overall drug enforcement system, there are problems in only using measures of drug supply as a measure of task force success. First, other variables out of the control of the task forces may affect drug supply, such as the fluctuations in the amount of drugs available from international sources. Second, although task forces may be successful in destroying organizations, the potential profit in the business and continued drug availability and demand draw others into the business. While task forces might affect perceived profitability over time, they alone cannot control this incentive. Third, the actual universe of drug supply is difficult to measure. Surrogate measures--the price and purity of drugs--are imperfect and may not be valid assessments of the actual supply.

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Because of time constraints, your office requested we not obtain agency comments on this report. As arranged with your office, unrestricted distribution of this report will be made 30 days after the date of the report or at the time of public release of the report's contents by your office.

Sincerely yours,

W.J. Anderson

William J. Anderson
Director

BY THE U.S. GENERAL ACCOUNTING OFFICE

Report To The Chairman, Subcommittee On Government Information, Justice And Agriculture Committee On Government Operations House Of Representatives

Coordination Of Federal Drug Interdiction Efforts

GAO reviewed operations of the National Narcotics Border Interdiction System (NNBIS) and concluded that the concept upon which NNBIS was founded--a need for improved cross-agency coordination of drug interdiction efforts--was sound. GAO found that there has been some improvement in interagency coordination and that NNBIS' efforts did result in some gain in drug interdictions. However, these improvements still fell far short of what is needed to substantially reduce the flow of drugs into the country.

In addition, the relationship of NNBIS (presently located in the Office of the Vice President) to the newly created National Drug Enforcement Policy Board is unclear in light of the Board's statutory objectives.

GAO/GGD-85-67
JULY 15, 1985

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

GENERAL GOVERNMENT
DIVISION

B-217643

The Honorable Glenn English
Chairman, Subcommittee on Government
  Information, Justice, and Agriculture
Committee on Government Operations
House of Representatives

Dear Mr. Chairman:

This report responds to your April 24, 1984, request that we review the operations of the National Narcotics Border Interdiction System (NNBIS). NNBIS' mission is to coordinate the work of federal agencies that have responsibilities and capabilities for interdicting seaborne, airborne, and other cross-border importation of narcotics. As agreed with your office, we reviewed NNBIS' development and activities since its inception in 1983; NNBIS' involvement in drug interdiction cases; and the perceptions of federal, state, and local law enforcement officials who interact with NNBIS. We focused our review on the four NNBIS regional centers along the southern border of the United States because of the Subcommittee's interest in drug smuggling from Latin America. (A detailed description of our objectives, scope, and methodology is included as app. II.)

The concept upon which NNBIS was founded--the coordination of drug interdiction efforts--is sound, and NNBIS has made positive contributions toward enhancing communications among agencies involved in drug interdictions. However, the results of NNBIS' activities as a nationwide coordinator of drug interdictions, have been minimal, and the improvements NNBIS has achieved have fallen far short of substantially reducing the flow of illegal drugs into the United States. In addition, the relationship of NNBIS, located in the Office of the Vice President, to the newly created National Drug Enforcement Policy Board is unclear in light of the Board's statutory objective of overseeing and coordinating all federal drug law enforcement efforts, including drug interdiction. Our findings are summarized below and described in detail in appendix I.

FEDERAL DRUG INTERDICTION AT THE U.S. BORDER

Large quantities of illegal drugs--heroin, cocaine, marijuana, and other dangerous drugs, such as amphetamines--continue to be smuggled into the United States from other countries. Primary authority and responsibility for federal drug interdiction activities are divided among three agencies in three executive departments--the Treasury Department's U.S. Customs Service, the Transportation Department's U.S. Coast Guard, and the Justice Department's Drug Enforcement Administration (DEA). Other federal agencies are also involved to a lesser degree, including the military and the national intelligence community. Some state and local law enforcement agencies also have responsibilities relating to drug interdiction.

In a 1983 GAO report on federal drug interdiction efforts, we pointed out that the interdiction component of the federal drug enforcement program was fragmented, with Customs, Coast Guard, and DEA having different drug enforcement programs, priorities, and goals. We concluded that federal drug interdiction efforts have been hindered by a lack of coordination among federal law enforcement agencies.

MISSION, ORGANIZATION, AND MANAGEMENT OF NNBIS

The President announced the establishment of NNBIS on March 23, 1983, and directed the Vice President to head NNBIS. The President said that the mission of NNBIS was to coordinate the work of those federal agencies that have existing responsibilities and capabilities for the interdiction of seaborne, airborne, and other cross-border importation of illegal drugs. He directed NNBIS to monitor suspected smuggling activity originating outside and destined for the United States and to coordinate agencies' seizures of contraband and arrests of persons involved in illegal drug importation. NNBIS coordinates the drug interdiction activities of other organizations but does not interdict drugs itself. NNBIS' activities are carried out by a headquarters staff in Washington, D.C., and six regional centers located in Miami, New Orleans, El Paso, Long Beach, Chicago, and New York City.

NNBIS is, and was intended to be, an informal coordinating body that recommends, but does not direct, actions by agencies involved in drug interdiction. NNBIS is not a separate and distinct agency--it does not have a legislative charter or a budget. It attempts to achieve its objectives and obtain its resources through the cooperation and contributions of its participating agencies. The agencies, primarily Customs and Coast Guard, contribute funding, equipment, facilities and staffing from their existing budgets. The NNBIS Staff Director said that headquarters has not developed detailed plans, procedures, or guidelines for the regional centers because NNBIS was not intended to be an agency or bureaucracy and because the Vice President wants NNBIS to have an informal, coordinative, noncommand structure.

Each NNBIS regional center has an Intelligence Information Coordination Center and an Operations Information Center. The intelligence center is designed to gather and collate drug smuggling intelligence and pass information to the operations center and law enforcement agencies. The operations center is designed to help law enforcement agencies detect and track suspected smugglers; review the availability of civilian and military interdiction resources; make recommendations to the appropriate agency or agencies for surveillance, interception, and seizure of illegal drug shipments; and coordinate joint special operations involving civilian law enforcement agencies and the military.

INTELLIGENCE ACTIVITIES

Most of NNBIS' intelligence activities are carried out by the NNBIS regional centers, with assistance from NNBIS headquarters in the acquisition of intelligence from the national intelligence community. The intelligence centers in the regions primarily collect intelligence that has been gathered by others, but they also actively acquire information by conducting surveillances and developing and interviewing informants. In addition, they coordinate special intelligence projects carried out by other organizations.

NNBIS officials said the amount of intelligence they had received has been limited, particularly tactical intelligence which provides specific information about the time and place of drug shipments. Some NNBIS officials told us they were unsure whether other agencies possess additional tactical intelligence that they are not providing NNBIS.

To help gather intelligence, NNBIS headquarters has worked to improve the coordination and participation of the national intelligence community. Most of the NNBIS centers were just starting to receive information from the national intelligence community at the time of our field work (May 1984 through November 1984). The NNBIS officials were optimistic that information coming from the national intelligence community will help increase the availability of tactical intelligence.

COORDINATING DRUG INTERDICTION OPERATIONS

NNBIS has worked to facilitate communications involving both civilian law enforcement agencies and the military. However, NNBIS has not played a coordinating role in most drug interdiction operations, and the extent of NNBIS participation as an operations coordinator has varied widely among NNBIS' regional centers.

From June 10, 1983, to June 9, 1984, NNBIS recorded 2,289 drug interdiction cases occurring in the areas served by the four NNBIS regional centers we visited. The four centers identified

136 cases in which they reported participation from June 1983 through June 1984. The Miami center accounted for 101 of the 136 cases. It should be recognized that many drug interdictions involve only a single agency and may not require NNBIS participation as a coordinator.

We analyzed 77 of the 136 drug interdictions in which the four centers reported participation. NNBIS' records sometimes did not show at what point NNBIS became aware of the case or the nature of their participation. Our review of the records and our discussions with NNBIS and other agency personnel often failed to clarify the exact nature of NNBIS' actions. Consequently, in 29 of the 77 cases we analyzed, we could not determine whether the interdiction would have occurred if NNBIS had not participated. In our judgment, 14 of the remaining 48 interdictions would not have occurred without NNBIS' participation and 34 would have occurred even if NNBIS had not participated. Our determinations were based on our analysis of the action that NNBIS took in each case and our assessment of each action's contribution to an interdiction.

The regional centers concentrate on drug smuggling between ports-of-entry. NNBIS officials believe this is where NNBIS can make the greatest contribution to drug interdiction efforts. In 69 of the 77 cases we analyzed, marijuana or marijuana residue was seized.

VIEWS OF LAW ENFORCEMENT OFFICIALS

We sent a standardized questionnaire to 58 federal, state, and local law enforcement officials in the regions covered by the four NNBIS centers we visited. The views of the officials responding to the questionnaires were mixed on how NNBIS had affected drug interdiction efforts in their areas. Thirty-five percent said NNBIS had improved the efforts to some extent, 48 percent said NNBIS had no effect, and 2 percent said NNBIS had somewhat worsened the efforts. Fifteen percent of the respondents indicated that they had no basis to judge NNBIS' effect on drug interdiction efforts.

We asked the officials responding to our questionnaire whether they foresee NNBIS as a valuable resource for improving their office's drug interdiction activities in the future. Twenty-seven percent answered either definitely or probably yes, 38 percent were uncertain, and 35 percent said probably or definitely no.

Both the questionnaire respondents and the officials we talked with gave credit to NNBIS for facilitating access to military resources. While some officials we talked with said the

Posse Comitatus Amendment of 1981[1] is responsible for increased Department of Defense (DOD) cooperation, they were pleased with NNBIS' efforts in facilitating access to military resources. They also said that getting military assistance through NNBIS is quicker, easier, and less costly to them than before.

NATIONAL NARCOTICS ACT OF 1984 RAISES QUESTIONS CONCERNING NNBIS' ROLE

The National Narcotics Act of 1984 (Public Law 98-473) established a National Drug Enforcement Policy Board to oversee and coordinate all federal drug law enforcement efforts, including drug interdiction. It is not clear from the act what effect the establishment of this new board is intended to have on NNBIS.

The Board is responsible for reviewing and developing U.S. drug law enforcement policy, strategy, and resources, including budgetary priorities; facilitating the coordination of all federal drug law enforcement operations; and coordinating the collection and evaluation of information necessary to implement U.S. drug law enforcement policy. The Attorney General is designated as Chairman of the Board. Other members include the Secretaries of State, Treasury, Defense, Transportation, and Health and Human Services; the Director of the Office of Management and Budget; the Director of Central Intelligence; and other such officials as may be appointed by the President.

Through the act, the Congress intended to strengthen central direction of U.S. anti-drug efforts. While the 1984 act establishes a framework for strengthening the central direction of all federal drug law enforcement activities, the relationship of NNBIS, presently located in the Office of the Vice President, to the Board is unclear in light of the Board's statutory objective. The Vice President is not a member of the National Drug Enforcement Policy Board. The present organizational placement of NNBIS may limit the Board's ability to facilitate coordination of drug interdiction, a major component of the drug law enforcement effort.

Three basic alternatives are available when considering the future approach to drug interdiction coordination. These alternatives include (1) maintaining NNBIS under the direction of the Vice President, (2) keeping some NNBIS functions under the direction of the Vice President and placing other NNBIS functions under the direction of the Board, or (3) placing all of NNBIS' functions under the direction of the Board. Each alternative has benefits and drawbacks. Keeping all or part of NNBIS' functions in the Office of the Vice President gives the mission of drug interdiction coordination high visibility and provides an important leadership factor in securing the support and participation of involved agencies. However, such an arrangement would leave two separate entities--NNBIS and the Board--and their relationship would have to be explicitly delineated.

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[1] This legislation clarified the extent of military cooperation allowed under the Posse Comitatus Act which became law in 1878.

Placing all of the functions of NNBIS under the Board would combine all the interdiction efforts of the government with other drug law enforcement activities and might facilitate centralized direction of federal efforts in drug law enforcement. The Board could oversee drug interdiction coordination, determine priorities, and decide how interdiction resources should be deployed in the context of the entire federal drug law enforcement effort.

CONCLUSIONS

NNBIS has made some improvements in interagency coordination for drug interdiction. However, these improvements still fall far short of what is needed to substantially reduce the flow of illegal drugs into the United States.

NNBIS officials told us that the amount of drug smuggling intelligence their centers had received has been limited. Because the centers lacked such intelligence, it was difficult to make useful recommendations to interdicting agencies for effective actions against drug smugglers. The four NNBIS regional centers along the southern U.S. border told us they played a coordinating role in 136 interdictions between June 1983 and June 1984. This represents a small proportion of the total number of interdictions that occurred. Moreover, one regional center, Miami, accounted for 101 of the 136 cases. Our analysis of 77 of the interdiction cases in which the NNBIS centers reported participation disclosed that many of the interdictions would have occurred even if NNBIS had not participated. The regional centers concentrate on drug smuggling between ports-of-entry. NNBIS officials believe this is where NNBIS can make the greatest contribution to drug interdiction efforts. Focusing on this type of smuggling has generally resulted in interdictions involving marijuana and not other drugs (such as heroin and cocaine) that represent a serious threat to the Nation. These factors may explain why various law enforcement officials we contacted were divided in their views on whether NNBIS has improved, or will improve, drug interdiction activities.

We believe, however, that the concept upon which NNBIS was founded is sound. A 1983 GAO report identified the need for improved cooperation and communication among drug interdiction agencies to enhance the fight against drug smuggling. The presence of NNBIS has helped to open the lines of communication among the involved agencies. We believe this aspect of NNBIS' mission is vital regardless of any specific role NNBIS may assume in operational responsibilities, such as gathering intelligence, prioritizing interdiction targets, and recommending specific interdiction actions to agencies.

NNBIS' continued mission and role in drug interdiction activities present an issue that should be addressed in the context of the overall federal drug strategy. The National Narcotics Act of 1984 established the National Drug Enforcement Policy Board to oversee and coordinate all federal drug law enforcement efforts, including drug interdiction. Through the act, the Congress intended to strengthen the central direction of U.S. anti-drug efforts. NNBIS, however, is headed by the Vice President, who is not a member of the Board. The relationship of NNBIS to the Board is unclear in light of the Board's statutory objective, and the location of NNBIS in the Office of the Vice President may limit the Board's ability to oversee and coordinate drug interdiction.

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More detailed information on the results of our work is presented in the appendixes. We trust the information provided will be useful to your continuing oversight efforts. We did not obtain agency comments on this report; however, we have discussed the information contained in this report with NNBIS officials and considered their comments.

As arranged with your office, unless you publicly announce its contents earlier, we plan no distribution of the contents of this report until 30 days from the date of the report. At that time we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,

W. J. Anderson

William J. Anderson
Director

COORDINATION OF FEDERAL DRUG INTERDICTION EFFORTS BY THE NATIONAL NARCOTICS BORDER INTERDICTION SYSTEM

At the request of the Chairman of the Subcommittee on Government Information, Justice, and Agriculture, House Committee on Government Operations, we reviewed the activities of the National Narcotics Border Interdiction System (NNBIS). This appendix provides information on NNBIS'

--mission, organization, and management;

--acquisition and dissemination of drug smuggling intelligence;

--coordination of drug interdiction operations;

--participation in interdictions;

--emphasis on interdicting drugs between ports-of-entry; and

--process for securing military assistance.

This appendix also provides information on the views of law enforcement officials on NNBIS.

FEDERAL DRUG INTERDICTION AT THE U.S. BORDER

For years, the federal government has carried out a variety of efforts intended to reduce the supply of illegal drugs available in this country. Federal domestic law enforcement efforts have sought to immobilize drug trafficking organizations; drug interdiction[1] activities at the Nation's borders have taken place to seize drugs, arrest smugglers, and obtain intelligence[2] concerning drug trafficking; and international programs have been established to encourage and assist foreign governments to decrease the production and interdict the flow of illicit drugs.

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[1] Drug interdiction means the seizure by law enforcement agencies of illegal drugs being smuggled into the United States.

Drug interdiction is considered to be an important element in drug supply reduction efforts. Interdiction removes drugs from the illicit market, increases the risk to drug traffickers, and discourages some would-be traffickers from attempting drug smuggling. In addition, successful interdiction of drugs provides intelligence and evidence which can lead to the destruction of major drug trafficking organizations.

Primary authority and responsibility for federal drug interdiction activities are divided among three agencies in three executive departments--the Treasury Department's U.S. Customs Service, the Transportation Department's U.S. Coast Guard, and the Justice Department's Drug Enforcement Administration (DEA). Other federal agencies are also involved to a lesser degree, including the military and the national intelligence community.[3] Some state and local law enforcement agencies also have responsibilities relating to drug interdiction.

In a 1983 GAO report[4] on federal drug interdiction efforts, we pointed out that the interdiction component of the federal drug enforcement program was fragmented, with Customs, Coast Guard, and DEA having different drug enforcement programs, priorities, and goals. We concluded that federal drug interdiction efforts have been hindered by a lack of coordination among federal law enforcement agencies.

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[2] Drug intelligence consists of knowledge and experience concerning (1) drug trafficking and abuse patterns and trends, including geographic areas involved and types of smuggling activities (strategic intelligence); (2) specific individuals and organizations responsible for importing and distributing illegal drugs, the extent of their criminal activity, and details on drug trafficking organizations (operational intelligence); and (3) information concerning anticipated drug or drug-related criminal acts so that enforcement agencies can take action (tactical intelligence).

[3] The national intelligence community includes the Central Intelligence Agency, National Security Agency, Defense Intelligence Agency, and other intelligence units in the departments of Defense, State, Justice, Treasury, and Energy.

[4] Federal Drug Interdiction Efforts Need Strong Central Oversight, (GAO/GGD-83-52, June 13, 1983).

MISSION, ORGANIZATION, AND MANAGEMENT OF NNBIS

The mission of the National Narcotics Border Interdiction System is to coordinate federal drug interdiction efforts. NNBIS is a coordinating body--it coordinates the drug interdiction activities of other organizations but does not interdict drugs itself. Most of NNBIS' activities are carried out by six regional centers located in Miami, New Orleans, El Paso, Long Beach, Chicago, and New York City. NNBIS regional centers were modeled on the drug interdiction coordination and intelligence gathering activities of the South Florida Task Force, a broad anti-crime program established in 1982 in Miami under the direction of the Vice-President. NNBIS headquarters supports the regional operations by performing various coordinating functions at the national level. As agreed with the Subcommittee on Government Information, Justice, and Agriculture, we focused our review on the four regional centers located along the southern border of the United States--Miami, New Orleans, El Paso, and Long Beach. A detailed description of our objectives, scope, and methodology is included as appendix II.

Mission

The President announced the establishment of NNBIS on March 23, 1983, and directed the Vice President to head NNBIS. According to the President, the mission of NNBIS was to coordinate the work of those federal agencies that have existing responsibilities and capabilities for the interdiction of seaborne, airborne, and cross-border importation of illegal drugs. The President directed NNBIS to monitor suspected smuggling activity originating outside the United States and destined for the United States and to coordinate agencies' seizures of contraband and arrests of persons involved in illegal drug importation.

NNBIS is, and was intended to be, an informal coordinating body that recommends, but does not direct, actions by agencies involved in drug interdiction. NNBIS is not a separate and distinct agency--it does not have a legislative charter or a budget. It attempts to achieve its objectives and obtain its resources through the cooperation and contributions of its participating agencies. The agencies, primarily Customs and Coast Guard, contribute funding, equipment, facilities, and staffing from their existing budgets.

On June 17, 1983, when the Vice President announced the establishment of the NNBIS regional centers, he said that NNBIS was a permanent program that would use the general principles and most successful interdiction coordination techniques of the South Florida Task Force. The Vice President directed the regional centers to gather and analyze intelligence, assess the local drug smuggling threat, assign priorities to interdiction targets, identify resources, recommend the most effective action to be taken, and coordinate special operations involving activities by more than one federal agency. In carrying out its mission, NNBIS is responsible for coordinating requests by civilian law enforcement agencies for military assistance relating to drug smuggling. In addition, NNBIS is to act as a conduit for drug smuggling intelligence flowing from the national intelligence community to law enforcement agencies.

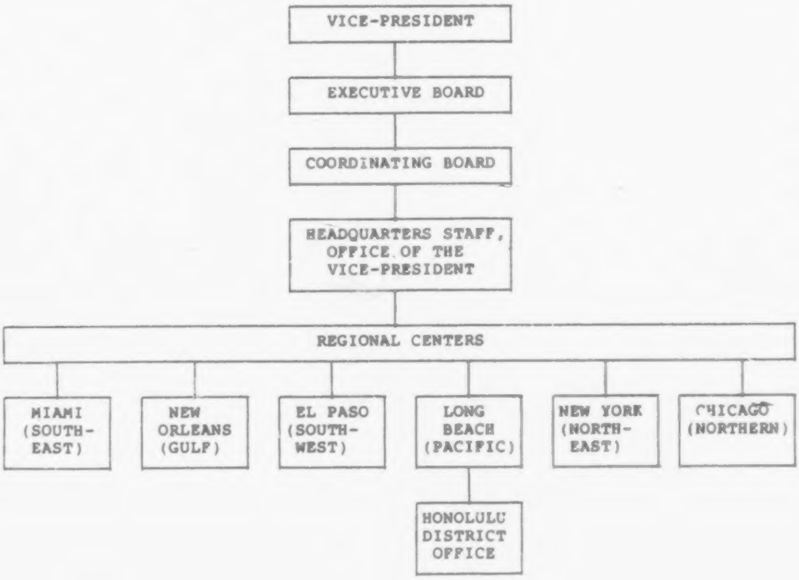
Organization

NNBIS is headed by the Vice President and governed by an Executive Board appointed by the President and a Coordinating Board composed of ranking officials from participating federal agencies. The bulk of NNBIS' operations are carried out by the regional centers while a headquarters staff coordinates with the regional centers and participating agencies. The organizational structure of NNBIS is shown in figure 1.

Figure 1

Organizational Structure of

National Narcotics Border Interdiction System


VICE-PRESIDENT
EXECUTIVE BOARD
COORDINATING BOARD
HEADQUARTERS STAFF, OFFICE OF THE VICE-PRESIDENT
REGIONAL CENTERS
MIAMI (SOUTH-EAST)
NEW ORLEANS (GULF)
EL PASO (SOUTH-WEST)
LONG BEACH (PACIFIC)
NEW YORK (NORTH-EAST)
CHICAGO (NORTHERN)
HONOLULU DISTRICT OFFICE

NNBIS' headquarters staff coordinates with the regional centers and the participating agencies. The Staff Director is from the Coast Guard, and the five other staff members are from the Coast Guard, Customs, Air Force, and Navy. NNBIS headquarters activities include coordinating with the Department of Defense (DOD) to obtain military assistance for drug interdiction efforts; working to increase the flow of drug smuggling intelligence, especially from the national intelligence community; and compiling information on drug interdictions.

Each NNBIS regional center has an Intelligence Information Coordination Center and an Operations Information Center. The intelligence center is designed to gather and collate drug smuggling intelligence and pass information to the operations center and law enforcement agencies. The operations center is designed to help law enforcement agencies detect and track suspected smugglers; review the availability of civilian and military interdiction resources; make recommendations to the appropriate agency or agencies for surveillance, interception, and seizure of illegal drug shipments; and coordinate joint special operations among law enforcement agencies and the military.

The organization, size, and composition of the staff at each of the four regional centers we examined is similar. On October 1, 1984, the number of staff ranged from 31 full-time and 2 part-time personnel in Miami to 20 full-time and 3 part-time personnel in Long Beach. Each center had staff from the Coast Guard, Customs, DEA, Federal Bureau of Investigation (FBI), Immigration and Naturalization Service (INS), the military services, and state and/or local law enforcement agencies. NNBIS headquarters and regional officials were generally satisfied with how the centers were staffed. However, officials identified some staffing problems in the four centers we visited.

Staff turnover was perceived by NNBIS regional officials (except at Miami) to be a hindrance during the first several months of operations. During that time, many positions were filled by agencies on a short-term basis. NNBIS officials said this resulted in a loss of the expertise that the departing staff had acquired. The NNBIS Staff Director told us that this situation has improved and that agencies are now assigning personnel for longer periods of time.

DEA's commitment of personnel was less than NNBIS had expected. According to DEA guidelines issued in August 1983 concerning coordination and participation with NNBIS, DEA planned to assign one criminal investigator and one intelligence analyst to each of the NNBIS centers. We noted, however, that El Paso had no DEA criminal investigator, New Orleans was without a DEA criminal investigator for a period of several months, and Long Beach had a DEA investigator and analyst working at the center intermittently. The Administrator of DEA told us that DEA's initial commitment was not met during the first months of NNBIS' operations because DEA's assigned personnel were not being productively used by NNBIS. The DEA Administrator told us that DEA planned to fully meet its initial commitment.

The NNBIS Staff Director told us that the rank of the military personnel assigned was lower than what NNBIS had requested. We noted that most were enlisted personnel. NNBIS representatives at Long Beach and El Paso said higher ranking military personnel would be able to deal more effectively with local base commanders in securing and coordinating the use of military resources for drug interdiction.

Management is informal and decentralized

Each regional center determines how it will carry out the responsibilities assigned by the President and Vice President. According to the NNBIS Staff Director, each center was required to set up its operations using the President's and Vice President's announcements of NNBIS' responsibilities and the established organizational structure as guidance. The Staff Director said that headquarters has not developed detailed plans, procedures, or guidelines for the regional centers because NNBIS was not intended to be an agency or bureaucracy and because the Vice President wants NNBIS to have an informal, coordinative, non-command structure.

NNBIS has not developed a formal self-evaluation system. NNBIS headquarters monitors the regional centers' operations using daily messages, weekly reports, and monthly critiques of special operations prepared by each regional center. NNBIS headquarters also (1) reviews statistics on the number of drug seizures at the borders and (2) informally monitors the extent that agencies, particularly DOD, interact with NNBIS.

ACQUIRING AND DISSEMINATING DRUG SMUGGLING INTELLIGENCE

Most of NNBIS' intelligence activities are carried out by the NNBIS regional centers, with assistance from NNBIS headquarters in the acquisition of intelligence from the national intelligence community. The intelligence centers in the regions primarily collect intelligence that has been gathered by others, but they also actively acquire information by conducting surveillances and developing and interviewing informants. In addition, they coordinate various special intelligence projects that other organizations carry out.

Availability of intelligence

The staff of the regional intelligence centers consist mainly of investigators and intelligence specialists who pass intelligence to and from their home agencies. Primary sources of existing intelligence for the NNBIS intelligence centers are the El Paso Intelligence Center (EPIC),[5] Coast Guard, Customs, Drug Enforcement Administration, and the Department of Defense. However, NNBIS officials said the amount of intelligence they had received has been limited, particularly tactical intelligence which provides specific information about the time and place of drug shipments. Some NNBIS officials told us they were unsure whether other agencies possess additional tactical intelligence that they are not providing NNBIS.

The New Orleans intelligence center Director said success in acquiring drug smuggling intelligence depends on the extent that agencies cooperate, and the major barrier has been that law enforcement agencies have priorities other than drug interdiction. For example, DEA concentrates on investigating major domestic drug traffickers and not on collecting and disseminating tactical drug interdiction intelligence. The New Orleans Director also noted that agencies provide intelligence to NNBIS on specific cases when they need assistance, particularly military assistance. In New Orleans, the intelligence center was designing a questionnaire for DEA investigators to use so that more drug interdiction intelligence would be included in DEA's investigative reports.

The intelligence center Director in Miami told us that a hindrance to receiving intelligence is that NNBIS is new and incorrectly perceived by others. He told us that a perception exists among law enforcement agencies that NNBIS takes information, assets, and resources and gives little in return.

The Long Beach intelligence center's efforts were affected by various factors. Long Beach NNBIS officials told us that the limited amount of available intelligence had caused the Long Beach intelligence center to establish as a major goal the task of increasing the flow of intelligence among involved law enforcement agencies. We also noted that the Long Beach center's intelligence efforts were affected by the existence of a major drug smuggling intelligence unit operated by the Coast Guard. The Coast Guard's Pacific Area Intelligence unit also collects intelligence relating to maritime drug smuggling, analyzes what is gathered, and disseminates intelligence to its own interdiction units as well as others, including NNBIS. The Coast Guard unit's efforts have increased substantially since 1983. Long Beach NNBIS officials told us that because of the Coast Guard unit's activities, the Long Beach center's intelligence workload is less than it otherwise would be.

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[5] EPIC was established in 1974 as a multi-agency intelligence center operated by DEA. EPIC serves as a central point for collecting, analyzing, and disseminating intelligence on worldwide drug movements by land, sea, and air.

National intelligence community involvement is increasing

To help gather intelligence, NNBIS headquarters has worked to improve the cooperation and participation of the national intelligence community. The Staff Director said that NNBIS' intelligence coordination efforts have resulted in the dissemination of national intelligence community information to the regional centers and an increase in the amount of information that the intelligence community believes can lawfully be released to law enforcement agencies.

Most of the NNBIS centers were just starting to receive information from the national intelligence community at the time of our work (May 1984 through November 1984). According to NNBIS officials, the New Orleans and El Paso centers first received such intelligence in September 1984, and the Long Beach center started receiving it in November 1984. This type of intelligence had been provided to the South Florida Task Force before the establishment of NNBIS and continued to be provided to the Miami NNBIS center. The NNBIS officials were optimistic that information coming from the national intelligence community will help increase the availability of tactical intelligence.

Policy for operational intelligence gathering varies by regions

We noted that intelligence center staff at some regional centers gather original intelligence operationally (e.g., conducting surveillance and developing and interviewing informants) in addition to collecting existing intelligence from other agencies. There is no uniform NNBIS policy for operational intelligence gathering by regional centers. Regional officials in El Paso and Long Beach told us that operational intelligence gathering is generally performed by staff members under the authority of their home agency. The Staff Director at NNBIS headquarters told us that although NNBIS personnel sometimes actively gather intelligence, this type of intelligence work is an exception to the way they normally operate.

Our work disclosed that intelligence center staff at Miami, Long Beach, and El Paso had carried out such activities. For example, at the El Paso center, a Customs official contacted original sources of intelligence to verify information regarding suspect aircraft. He told us that NNBIS officials have directed him to discontinue this type of intelligence gathering. He noted that such activities by NNBIS personnel can cause friction with law enforcement agencies.

NNBIS has been criticized for actively collecting intelligence. In January 1984, the Administrator of DEA said that active collection of intelligence by NNBIS representatives is an encroachment on DEA's mission. Likewise, Customs took exception to certain intelligence gathering activities conducted by the NNBIS center in New York. Customs officials said these activities included interviewing prisoners and taking photographs at ports. The Customs Assistant Commissioner, Office of Enforcement, told us that he believes NNBIS should not conduct operational intelligence gathering and that Customs personnel assigned to NNBIS should not actively gather intelligence as Customs employees.

Special intelligence projects

The intelligence centers also coordinate various types of special intelligence gathering projects that are carried out by others. For example, the Channel Islands Intrusion Survey was a special intelligence project developed and coordinated by the Long Beach intelligence center staff. It was designed to help determine whether or not there is a smuggling threat on the Channel Islands off the coast of California. On the basis of information gathered from law enforcement agencies and informants, NNBIS arranged for U.S. Marine Corps personnel to monitor some air landing strips on the islands. It also arranged for and used some Customs equipment for the operation.

COORDINATING DRUG INTERDICTION OPERATIONS

NNBIS operations coordination activities are primarily carried out by the NNBIS regional centers, with assistance from NNBIS headquarters primarily in the acquisition of military resources. Each NNBIS region operates an Operations Information Center.

The two main activities of the regional operations centers are (1) watch operations to identify and track possible drug smuggling activities and recommend interdictions to law enforcement agencies and (2) special operations involving both civilian law enforcement agencies and military resources. We observed that the extent and types of activities carried out by the watch operations varied by regional center.

Watch operations vary widely

The Miami center's watch operation, which originated as part of the South Florida Task Force, was the model for the establishment of the other region's watch operations. The Miami operations center maintains a 24-hour per day watch which works as follows. The operations center receives intelligence from various sources, including the region's intelligence center, regarding suspect vessels and aircraft. When sufficient intelligence is gathered to indicate that a particular vessel or aircraft has a high potential for interdiction, the NNBIS center may designate the vessel or aircraft as an interdiction target (which NNBIS calls a "TAG").[6] Once a TAG is established, the operations center attempts to obtain further information and to track the TAG's location through various means. When there is enough information and an interdiction is possible, the operations center recommends such action to law enforcement agencies and the TAG is classified as a case. The New Orleans operations center has a 24-hour watch and operates in the same manner as the Miami center.

In contrast, the Long Beach center maintained a 24-hour watch until August 18, 1984, when it was changed to 16 hours per day on Mondays through Fridays and 8 hours per day on weekends. The Long Beach operations center also differs from Miami and New Orleans in that while it had designated a number of TAGs it had not made any recommendations for interdictions of those TAGs through November 1984. Long Beach NNBIS officials told us they had not received enough intelligence on the TAGs it had established to warrant recommendations for interdiction.

In El Paso, the watch was not a major activity of the operations center. The operations center staff did not have an active caseload of drug smuggling targets at the time of our fieldwork and had never established a TAG. El Paso NNBIS officials attributed this to a lack of tactical intelligence. The El Paso watch operations consisted of activities such as receiving calls from law enforcement agencies alerting the center of drug smuggling suspects being tracked and then notifying other agencies of the tracking activities. El Paso NNBIS officials told us that El Paso planned to reduce the watch operation from 24 to 16 hours per day by eliminating the midnight shift because the level of activity did not justify a longer watch.

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[6] A TAG is established when NNBIS obtains actionable intelligence on an aircraft or vessel suspected of being used for drug smuggling. For example, if the operations center receives information that a particular vessel meeting a drug smuggling profile had been sighted in an area, the vessel would be designated as a TAG.

Table 1 shows the number of TAGs established by each of the four regional centers from June 1983 through June 1984. The number of TAGs exceeds the number of actual vessels and aircraft involved because some TAGs were closed and reactivated as new TAGs.

Table 1

TAGs Established
June 1983 Through June 1984

Regional center	Number of TAGs
Miami	1,505
New Orleans	225
Long Beach	97
El Paso	0

Special operations

Another major operations center activity is coordinating and supporting joint special operations to detect and apprehend drug smugglers and to assess the regional smuggling threat. Special operations usually involve both law enforcement agencies and military resources. NNBIS headquarters may participate in planning and coordinating the operations.

We observed that the El Paso operations center concentrated its efforts on special operations. The following is an example of a special operation in which the El Paso center participated: Customs initiated Operation Snowflake along the Arizona-Mexico border for 5 days in January 1984. The operation was coordinated through the El Paso NNBIS center which requested the support of Navy E2-C and Marine Corps OV-10 aircraft. NNBIS personnel also observed and evaluated the operation. Customs made two drug seizures after the E2-C identified suspect aircraft and the OV-10 helped track the suspects. A total of about 3,300 pounds of marijuana, one aircraft, and three vehicles were seized, and five suspects were arrested.

Our work indicated that many special operations did not result in drug seizures or arrests. For example, the El Paso operations center was involved in 19 special air operations from July 1983 through October 1984. Two of the 19 operations focused on gathering intelligence of strategic value. In 15 of the remaining 17 operations, no drug seizures or arrests were made.

The Long Beach operations center was involved in seven special air operations from June 1983 through July 1984 and 13 marine operations from August 1983 through August 1984. The marine operations produced no drug interdictions. The air operations were conducted primarily by Customs, with NNBIS securing military resources and monitoring the operations. One of these operations resulted in a successful drug interdiction (600 pounds of marijuana and two arrests). The Long Beach operations center also secured Navy resources for special marine operations conducted by the Coast Guard and the Navy.

The NNBIS Staff Director stated that even though special operations are not always successful in identifying drug smugglers for interdiction, they provide other benefits. According to the Staff Director, the operations help in determining relative threats in specific areas, identifying potential smugglers, and educating both DOD and enforcement agencies on working together.

NNBIS PARTICIPATION IN INTERDICTIONS VARIES WIDELY AMONG REGIONS

As requested by the Subcommittee, we analyzed NNBIS' participation in interdictions. Our analysis indicates that NNBIS regional centers do not participate in most drug interdictions and that the extent of NNBIS participation varies widely among regions. NNBIS is not expected to participate in all drug interdictions because many drug interdictions involve only a single agency and may not require NNBIS participation as a coordinator.

From June 10, 1983, to June 9, 1984, NNBIS recorded 2,839 cases involving the interdiction of drugs. Many of these cases took place at ports-of-entry and involved relatively small amounts of illegal drugs. Such cases would typically have no need for NNBIS' participation. Of the recorded cases, 2,289, or 81 percent, occurred in the four NNBIS regions we visited (see table 2).

Table 2

Drug Interdiction Cases Occurring in the Areas Served by 4 NNBIS Regional Centers

Location	Cases
Miami	1,180
New Orleans	84
El Paso	602
Long Beach	423
Total	2,289

We asked NNBIS officials at each of the four centers we visited to identify those drug interdiction cases that NNBIS participated in from June 1983 through June 1984. The number of drug interdictions in which each of the four centers identified NNBIS participation is shown in table 3. However, the four centers may have been involved in or contributed to other drug seizures besides the 136 interdictions they identified for us. For example, all regional centers exchange intelligence with various agencies. The results of such activities are not always readily apparent and could include contributions to successful interdictions of which the center is not aware.

Table 3

Drug Interdiction Cases in Which
NNBIS Reported Participation (4 Regions)
June 1983 through June 1984

Regional center	Cases	Percent
Miami	101	74
New Orleans	25	18
El Paso	3	2
Long Beach	9	7
Total	136[a]	100[a]

[a] Two interdiction cases were identified by both Miami and New Orleans. The percentage of the 4 centers added together will total over 100 percent.

We analyzed 77 of the 136 drug interdictions in which the four centers reported participation. We analyzed all 37 of the interdictions in which New Orleans, El Paso, and Long Beach reported participation and 40 of the 101 interdictions in which Miami reported participation.[7] For each interdiction, we attempted to determine how NNBIS first found out about the case, the nature and extent of NNBIS' activities, the source(s) of information that led to the interdiction, and whether the interdiction would have occurred without NNBIS' participation. Because NNBIS' written records were not always complete, our analysis included discussions with NNBIS personnel and, in some cases, personnel from involved law enforcement agencies.

Most of the interdictions we analyzed involved vessels and marijuana. In the 77 cases, 62 involved vessels as a means of smuggling, 16 involved aircraft, and 2 involved automotive vehicles.[8] Marijuana was seized in 69 of the cases,[9] cocaine in 5 cases, and heroin in 1 case. In 2 of the cases identified by New Orleans, no drugs were seized.[10]

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[7] We randomly selected the 40 Miami interdiction cases from the 101 interdictions that the Miami staff identified.

NNBIS' records sometimes did not show at what point NNBIS became aware of the case or the nature of their participation. Our review of the records and our discussions with NNBIS and other agency personnel often failed to clarify the exact nature of NNBIS' actions. Consequently, in 29 of the 77 cases we analyzed, we could not determine whether the interdiction would have occurred if NNBIS had not participated. In our judgment, 14 of the remaining 48 interdictions would not have occurred without NNBIS' participation and 34 would have occurred even if NNBIS had not participated. Our determinations were based on an understanding of the action that NNBIS took in each case and our assessment of each action's contribution to a successful interdiction.

Although we conducted a detailed examination of each of the 77 interdiction cases, our conclusions are judgmental. We therefore discussed the results of our analysis with NNBIS officials in the four regional centers. In New Orleans, El Paso, and Long Beach, NNBIS officials agreed with our judgments regarding the extent of NNBIS' participation in interdictions. In Miami, NNBIS officials disagreed with our judgment that 6 of the 40 Miami cases would not have occurred without NNBIS participation. They believe that 13 cases fell into this category.

We found that NNBIS' participation in interdictions took such forms as gathering intelligence from other agencies, disseminating intelligence, obtaining confirmation of intelligence, securing military assistance, updating the location of suspect vessels, recommending areas to search for suspect vessels, and recommending interdictions. The following case illustrates NNBIS' participation in an interdiction that we believe would not have occurred without NNBIS' involvement.

--The New Orleans NNBIS center received information that a suspected "mothership" was moving northward in the Caribbean Sea toward the Yucatan Channel. Relying on this information, NNBIS recommended that

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[8] The total exceeds 77 because three of the drug interdiction cases involved a combination of vessels and other conveyances.

[9] In one of the cases, both marijuana and hashish oil were seized. Some cases involved marijuana residue.

[10] Aircraft were seized in the two cases. We are counting these seizures as interdictions for our analysis even though they do not meet the definition of a drug interdiction.

> the Coast Guard deploy a cutter in the western area of the Yucatan Channel to make an interdiction. The Coast Guard complied but did not detect the vessel. NNBIS later learned that the suspect vessel was in an area north of the Yucatan Peninsula. NNBIS recommended that the Air Force conduct overflights of the area to identify the vessel during a routine military mission. An Air Force WC-130 subsequently identified several suspect vessels. NNBIS advised the Coast Guard of this information. The Coast Guard deployed a cutter to the area, seized a vessel and over 8,500 pounds of marijuana, and arrested six persons. NNBIS then recommended that military and law enforcement agencies continue conducting overflights of the area based on intelligence indicating continued activities by the "mothership." During these overflights, a Coast Guard aircraft observed over 200 bales of marijuana floating in the water and one other vessel being scuttled by its crew.

We could not determine whether some of the drug interdictions we analyzed would have occurred in the absence of NNBIS' participation. In one case, for example, EPIC contacted the New Orleans NNBIS Center to advise that a suspected drug smuggling vessel was operating near the Yucatan Channel. NNBIS confirmed the accuracy of this information by obtaining corroborating information from another source of intelligence and notified the Coast Guard. The Coast Guard located the vessel, seized 20 tons of marijuana, and arrested nine people. NNBIS' activities in this case may or may not have affected the outcome of this case because information already existed that could have led to the interdiction even if NNBIS had not participated.

We concluded that some of the interdictions we analyzed would have occurred even if NNBIS had not participated. For example, we noted several cases where the interdiction took place before the NNBIS center was notified. In one of these cases, the Coast Guard notified the New Orleans NNBIS center of an aircraft crash where a small amount of marijuana was found. NNBIS then assisted the follow-up investigative efforts. In other cases, the NNBIS center conducted activities such as advising law enforcement agencies of the seizures and coordinating the movement of the seized drugs.

NNBIS ACTIVITIES GENERALLY RELATE TO MARIJUANA SMUGGLING BETWEEN PORTS-OF-ENTRY

The regional centers concentrate on drug smuggling between ports-of-entry. NNBIS officials believe this is where NNBIS can make the greatest contribution to drug interdiction efforts.

Focusing on this type of smuggling has generally resulted in interdictions involving marijuana.

The Miami center concentrates on maritime smuggling. NNBIS' records show that the majority of Miami's TAGs were vessels.[11] The Miami Operations Center Director said 90 percent of the Miami operations center's efforts center around sea interdictions, most of which are located in the South Florida, Bahamian, and Caribbean areas. He said the operations center does not give priority to marijuana interdiction but that marijuana is what is usually seized on interdicted vessels. According to the Miami Intelligence Center Director, 70 percent of the intelligence handled by his staff applies to sea traffic. The Miami NNBIS Staff Coordinator said that the Miami center is best equipped to handle open sea interdictions involving marijuana. NNBIS officials told us, however, that the Miami center planned to increase its efforts involving air smuggling.

The Operations Center Director at New Orleans told us that New Orleans focuses on vessels suspected of smuggling illegal drugs from Colombia through the Yucatan Channel. The New Orleans center believes this is where it can make the greatest contribution to the drug interdiction effort because the best available tactical intelligence involves such smuggling. The Director said the center had done little regarding other drug smuggling threats primarily because it lacks the tactical intelligence necessary to meaningfully assist law enforcement agencies responsible for addressing these threats.

At El Paso, NNBIS decided to first attack the air smuggling threat along the U.S.-Mexico border. According to the El Paso Staff Coordinator, the available military assistance (principally aircraft and radar) in the region is better suited to air interdictions than overland interdictions. The El Paso center's strategy was to coordinate special operations involving the military and law enforcement agencies, primarily Customs.

The Long Beach center has not established priorities for its efforts, but most activities involve maritime smuggling. A drug smuggling threat assessment prepared by Long Beach focused on vessels smuggling marijuana into the Pacific region. We also noted that of 97 TAGs established over a 1-year period, 88 were vessels.

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[11] NNBIS records showed that of 1,505 TAGs established by the Miami operations center from June 1983 through June 1984, 1,319 were vessels, 25 were aircraft, and 161 were either vessels or aircraft.

SECURING MILITARY RESOURCES TO ASSIST INTERDICTION EFFORTS

NNBIS headquarters coordinates quarterly requests by the regional centers for military assistance. The centers determine what military resources are needed and submit requests to NNBIS headquarters each quarter. Using knowledge of the resources that may be available, headquarters consolidates these requests and sends one quarterly request to the Department of Defense Task Force on Drug Enforcement. Regional centers also obtain the use of military resources through case-by-case requests directly to military bases.

The operations centers identify and maintain lists of military resources that are potentially available for assisting interdiction efforts. Operations center military staff are responsible for accomplishing this as part of their overall duties as liaison between NNBIS and the military branches. We noted that the Miami and Long Beach operations centers did not have lists of Navy ships considered available for assistance on a case-by-case basis. Most of the coordination that takes place with the Navy for this type of drug interdiction assistance is handled by the Coast Guard.

We noted that the regional centers had secured the assistance of many different types of military resources. However, we were not able to determine the total amount of military resources obtained by NNBIS for drug interdiction efforts. NNBIS' records regarding military assistance were incomplete.

VIEWS OF LAW ENFORCEMENT OFFICIALS ON NNBIS

In NNBIS' role as an informal coordinating body, it relies heavily on participating agencies for cooperation. The manner in which agencies perceive NNBIS is important because their views may affect their cooperation with NNBIS. In addition, agency perceptions provide indications of NNBIS' effectiveness. We obtained information from various federal, state, and local law enforcement officials concerning their views of NNBIS and any coordination of their activities with or by NNBIS.

We sent a standardized questionnaire to 58 federal, state, and local law enforcement officials in the regions covered by the four NNBIS centers we visited.[12] NNBIS officials told us the 58 law enforcement officials should be familiar with NNBIS activities. Forty-eight officials responded, or 83 percent of those sent questionnaires. We also talked with Customs, Coast Guard, and DEA officials during our fieldwork.

Eighty-one percent of the law enforcement officials responding to our questionnaire said NNBIS' role had been set forth clearly to them. At the same time, 56 percent of the questionnaire respondents said there were important aspects of NNBIS' role needing clarification. Respondents cited several specific areas including NNBIS' relationship with the national intelligence community, NNBIS' relationship with EPIC, whether NNBIS' activities duplicate those of other federal agencies, and what legal authority NNBIS possesses. Similar views were expressed by various law enforcement officials that we met with.

The views of the officials responding to the questionnaires were mixed on how NNBIS had affected drug interdiction efforts in their areas. Thirty-five percent said NNBIS had improved the efforts to some extent, 48 percent said NNBIS had no effect, and 2 percent said NNBIS had somewhat worsened the efforts. Fifteen percent of the respondents indicated that they had no basis to judge NNBIS' effect on drug interdiction efforts.

Both the questionnaire respondents and the officials we talked with gave credit to NNBIS for facilitating access to military resources. While some officials we talked with said the Posse Comitatus Amendment of 1981 is responsible for increased DOD cooperation, they were pleased with NNBIS' efforts in acquiring military resources. They also said that getting military assistance through NNBIS is quicker, easier, and less costly to them than before.

We also asked the officials responding to our questionnaire whether they foresee NNBIS as a valuable resource for improving their office's drug interdiction activities in the future. Twenty-seven percent answered either definitely or probably yes,

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[12] The law enforcement officials were on the "steering committee," or "boards of directors" for three of the four NNBIS regional centers we reviewed. Although the El Paso center did not have such a committee or board, we sent a questionnaire to each law enforcement official that the El Paso Staff Director said should be on such a committee if one existed. The 58 officials headed law enforcement field offices that included DEA; FBI; INS; Bureau of Alcohol, Tobacco, and Firearms; U.S. Marshals Service; U.S. Secret Service; Customs Air Support Branch; DEA/Customs Joint Task Group in Florida; and various state and local law enforcement agencies.

38 percent were uncertain, and 35 percent said probably or definitely no. Some of those who believe NNBIS will be a benefit in the future mentioned NNBIS' access to DOD resources. Others viewed NNBIS as having great potential for improving drug interdiction results after more agencies become aware of what NNBIS can do. Some respondents with negative perceptions of NNBIS' value in the future said that NNBIS is an unnecessary layer of bureaucracy. Other respondents with negative views said that information provided by NNBIS is already available elsewhere.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objective of our review was to obtain information on NNBIS' operations and on issues facing the future coordination of federal drug interdiction activities. We obtained information on NNBIS' activities and development since inception; NNBIS' involvement in drug interdiction cases; and the perceptions of federal, state, and local law enforcement officials who interact with NNBIS. We focused our review on the four NNBIS regions along the southern border of the United States--Miami, New Orleans, El Paso, and Long Beach--because of the Subcommittee's interest in smuggling from Latin America.

To accomplish our objective, we performed work at NNBIS headquarters in Washington, D.C., and at the four southern NNBIS regional centers. We also visited the New York and Chicago NNBIS centers. In addition, we performed work at the headquarters and several field offices of Customs, Coast Guard, and DEA; the headquarters of the Department of Defense; and the El Paso Intelligence Center. Our work included

--discussions and interviews with NNBIS and agency officials;

--a review of NNBIS' plans, procedures, and practices;

--an examination of NNBIS' and agencies' reports, files, correspondence, and statistical data;

--an analysis of drug interdiction cases that NNBIS said it was involved in; and

--a review of reports and estimates concerning the importation and availability of illegal drugs in the United States.

In addition to our field work, we sent a standardized questionnaire to 58 law enforcement officials identified by NNBIS as knowledgeable about NNBIS' mission and operations. The questionnaire requested information concerning each official's views of NNBIS and any coordination of activities with or by NNBIS. Forty-eight officials responded and answered all or parts of our questionnaires. The response rate was 83 percent.

We supplemented our work with information in related GAO reports, congressional reports, congressional hearings, and legislation. Our review was performed in accordance with generally accepted government auditing standards. Our field work was conducted from May 1984 through November 1984.

(186710)

United States General Accounting Office

GAO

Briefing Report to the
Honorable Joseph R. Biden, Jr.
United States Senate

July 1986

DRUG INVESTIGATIONS

Organized Crime Drug Enforcement Task Force Program: A Coordinating Mechanism

GAO United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-212966

July 17, 1986

The Honorable Joseph R. Biden, Jr.
United States Senate

Dear Senator Biden:

On May 23, 1985, you requested that we review the activities of the Organized Crime Drug Enforcement Task Force (OCDETF) Program. As agreed with your office, the primary objectives of our review were to obtain information on how (1) individual Task Forces are organized and operated and (2) Task Force personnel resources are accounted for and managed. This briefing report responds to your request. It provides information on the drug problem in the United States, the role of the OCDETF Program in combatting this problem, and how the OCDETF Program is operated.

In reviewing Task Force activities, our work included interviews with Task Force Coordinators representing U.S. Attorneys' Offices and the principal participating federal agencies (the Drug Enforcement Administration, Federal Bureau of Investigation, U.S. Customs Service, Internal Revenue Service, and Bureau of Alcohol, Tobacco and Firearms) at 8 of the 13 Task Forces. The Coordinators are central to Task Force operations. A detailed description of our objectives, scope, and methodology is included in appendix I.

The OCDETF Program was established in January 1983 as the cornerstone of the Administration's efforts against organized crime and drug trafficking. The program's mission is to identify, investigate, and prosecute high-level members of drug trafficking enterprises and to destroy their operations by adding new federal resources and fostering coordination and cooperation among the agencies involved. Task Force Coordinators in the eight Task Forces we visited generally believe the program has enhanced drug law enforcement. The advantages they cited most often were additional resources and better interagency coordination and cooperation.

The OCDETF Program was designed to give individual Task Forces wide flexibility in dealing with drug trafficking problems in their regions. In establishing the OCDETF Program framework, planners also provided that participants in the Task Forces would remain under the authority of their own agencies and that Task Force operational decisions would be based on a consensus of those agencies involved. The Task Forces, therefore, are an affiliation of independent agencies and have no single leader with the authority to direct operations.

Representatives of participating agencies told us that because of this condition the Task Forces are not really task forces.

This flexibility provides each participating agency and office discretion in deciding how it will work with and support the Task Forces. The agencies have different views, policies, and practices regarding certain key elements of Task Force operations, and these differences have affected how the Task Forces have been implemented. Disagreements and concerns exist regarding whether:

--Task Force agents and attorneys should be dedicated full-time to the Task Forces;

--Task Force Coordinators, agents, and attorneys should be housed together at one location;

--Task Force Coordinators should supervise Task Force agents; and

--the Customs Service (or all non-Justice) agents working on Task Force cases should be given Title 21 authority (i.e., authority to conduct drug investigations).

These issues have persisted since the start of the OCDETF Program. OCDETF officials in Washington, D.C., are conducting a study of these and other concerns to determine what corrective actions, if any, are necessary to improve the program. Justice Department officials told us that OCDETF's flexible structure and consensus decisionmaking process makes it difficult to resolve problems.

The lack of centralized authority at the national level complicates the decisionmaking process regarding OCDETF resources. The authority for deciding the level, mix, and geographic allocation of resources is divided among the participating agencies and departments. The OCDETF Working Group, chaired by the Deputy Attorney General and composed of ranking officials from participating agencies and departments, is responsible for setting OCDETF policy and monitoring the program, including making recommendations relating to resource allocations. The Attorney General and the National Drug Enforcement Policy Board are ultimately responsible for assuring that the OCDETF Program achieves an appropriate balance of needed resources.

The Working Group, however, does not collect data necessary to make resource allocation decisions. The Working Group does not require participating agencies to report attorney and agent time spent on Task Force cases to help in deciding if there is a need to reallocate, add, or reduce Task Force resources. Early in the program, the Justice Department recognized the need for this information, but Justice Department officials told us no mechanism was established to collect it because such a mechanism would have been too complex and costly.

The impact of the OCDETF Program is difficult to assess. One measure of the program's success is the prosecution of high-level drug traffickers, seizure of their assets, and the destruction of their illegal operations. The OCDETF Program reported through December 31, 1985, that Task Force cases had resulted in 2,453 individuals convicted, including 271 convictions under statutes aimed at heads of criminal organizations; fines, seizures, and forfeitures of property and cash exceeding $440 million; and large quantities of drugs removed from the market. Drug abuse, however, is unlikely to be eliminated by domestic law enforcement efforts, such as the OCDETF Program. Other factors, such as drug abuse prevention efforts, drug interdiction activities at U.S. borders, and crop eradication in source countries, play important roles in controlling the drug problem.

The results of our review of the OCDETF Program are discussed in detail in appendix I, and comments by the Department of Justice and the Department of the Treasury are shown as appendices II and III, respectively. In commenting on the report, both Justice and Treasury stated that overall the report presents a balanced assessment of the OCDETF Program. Justice and Treasury comments reflected their concern that the report appears to suggest the need for greater central control over operations and resources. While the report discusses organizational, operational, and funding aspects of the program, often in the context of centralized and decentralized control, it does not conclude or presume that greater central control is needed.

Regarding the appropriate balance and allocation of program resources, Justice acknowledged that fulfilling this management goal requires a mechanism to review and evaluate OCDETF resource utilization. Justice agreed that as noted in our report, a more consistent system of recording the number of agents and attorneys assigned to cases and the total number of staff hours expended on such cases would help in evaluating the effectiveness of the Task Forces' use of resources. Justice noted that further developments in this area are expected.

As arranged with your office, unless you publicly announce the contents of the report earlier, we plan no further distribution until 30 days from the date of the report. At that time, we will send copies to interested parties and make copies available to others upon request.

If there are any questions regarding the contents of this briefing report, please call me on (202) 275-8389.

Sincerely yours,

Arnold P. Jones
Senior Associate Director

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ABBREVIATIONS

ATF	Bureau of Alcohol, Tobacco and Firearms
AUSA	Assistant United States Attorney
CCE	Continuing Criminal Enterprise
DEA	Drug Enforcement Administration
FBI	Federal Bureau of Investigation
GAO	General Accounting Office
IRS	Internal Revenue Service
OCDETF	Organized Crime Drug Enforcement Task Force
PCP	Phencyclidine
RICO	Racketeer Influenced and Corrupt Organization
SAC	Special-Agent-In-Charge

OCDETF: A COORDINATING MECHANISM FOR RESOURCES CONTROLLED BY PARTICIPATING AGENCIES

BACKGROUND

In response to the growing scope and complexity of the drug problem in the United States, the federal government has significantly expanded its law enforcement efforts in recent years to reduce the supply of illegal drugs. The cornerstone of these efforts was the establishment of the Organized Crime Drug Enforcement Task Force (OCDETF) Program to identify, investigate, and prosecute members of high-level drug trafficking enterprises.

Drug abuse and drug trafficking problems persist

The consumption of illegal drugs in the United States is enormous. Cocaine, heroin, marijuana, and dangerous drugs[1] remain readily available. According to estimates for 1984 and near-term projections by the National Narcotics Intelligence Consumer Committee:

--The use of cocaine continues to grow across all socio-economic levels. Between 55 and 76 metric tons of cocaine were consumed in the United States in 1984, an 11-percent increase over 1983. Cocaine-related hospital emergencies increased 51 percent from 1983 to 1984, and total deaths as a result of cocaine use increased 77 percent. Cocaine availability in the United States is expected to remain high.

--Heroin use remains a significant problem in this country, with nearly 6 metric tons of heroin consumed in 1984. Heroin users continue to be mostly long-time users or recidivists. The number of heroin-related deaths in 1984 increased 31 percent over 1983, an increase attributed almost exclusively to that population which uses heroin in combination with other drugs. Heroin use is not expected to change significantly in the near future.

---

[1] The term "dangerous drugs" refers to those drugs manufactured legally and illegally, such as tranquilizers, barbiturates, and amphetamines, that are used for nonmedical purposes.

--An estimated 7,800 to 9,200 metric tons of marijuana were consumed during 1984, a 3-percent decrease from 1983. This decrease is believed to be due to declining use among young people (age 25 and under). Marijuana remained readily available in all major metropolitan areas, however, and was increasingly used in combination with other drugs, such as alcohol, phencyclidine (PCP), and cocaine. Marijuana consumption trends are not expected to change in the near term, but a greater availability of generally higher potency varieties of U.S., Mexican, and Thai marijuana is projected.

--The use of dangerous drugs has been increasing in the United States. Total consumption during 1984 was estimated at more than 3 billion dosage units, a 15-percent increase over 1983. This increase was largely due to greater use of methamphetamine and PCP. The use of dangerous drugs is expected to remain relatively unchanged in the near future. However, the use of methamphetamine, PCP, and codeine combinations is expected to increase, resulting in more hospital emergencies and deaths.

The huge demand for illegal drugs has created a multibillion-dollar industry in the United States. According to a March 1986 report issued by the President's Commission on Organized Crime:

> "Drug trafficking is the most widespread and lucrative organized crime operation in the United States, accounting for nearly 40 percent of this country's organized crime activity and generating an annual income estimated to be as high as $110 billion."

Drug trafficking involves a wide variety of complicated organizational and financial structures. Large drug trafficking organizations may employ many people, including financiers, logistics experts, exporters, importers, wholesalers, retailers, and money launderers. Some organizations may depend on or ally with other groups to accomplish a particular aspect of the operation. In other instances, trafficking organizations may be structured along corporate lines with members operating conglomerates of several small groups that handle one or more of the drug trafficking activities.

Federal government increases emphasis on drug enforcement

The 1984 National Strategy for Prevention of Drug Abuse and Drug Trafficking outlines the nation's approach to reducing the availability of illegal drugs and reducing the adverse effects of drug abuse. The five major elements of the strategy are: drug abuse prevention, drug law enforcement, international cooperation, medical detoxification and treatment, and research. These elements are designed essentially to reduce the supply of and demand for illegal drugs.

The national strategy emphasizes that the Administration has expanded federal drug law enforcement to the highest level in U.S. history. The federal budget for drug law enforcement, as contained in the President's budget submitted to the Congress, was over $1.4 billion for fiscal year 1986. This is more than double the amount budgeted for fiscal year 1981, and it does not include Department of Defense law enforcement support for border interdiction, which has increased since 1981.

The role of drug law enforcement is to reduce drug availability by destroying criminal drug trafficking networks, both international and domestic, and intercepting and eradicating illegal drugs which are en route to consumers. A primary objective of drug law enforcement is the aggressive investigation and prosecution of the full range of criminal activities associated with drug trafficking organizations, with emphasis on a full-scale attack on the financial aspects of drug trafficking. The strategy continues to emphasize expanding the involvement of every federal enforcement agency which has any capability for contributing to the fight against drug abuse.

The strategy also recognizes that law enforcement agencies working together often can accomplish more than the same agencies working separately, and one of the objectives for drug law enforcement is to improve interagency cooperation and coordination. Historically, federal drug law enforcement efforts have been hindered by coordination problems among the involved agencies.

OCDETF Program established to bolster attack on major drug trafficking organizations

President Reagan announced the formation of the OCDETF Program on October 14, 1982. The program's overall goal is to identify, investigate, and prosecute members of high-level drug trafficking enterprises and destroy the operations of those organizations by means of

--adding new federal resources for the investigation and prosecution of major drug trafficking organizations, and

--fostering interagency coordination and cooperation in the investigation and prosecution of major drug cases.

The Task Force program was initially comprised of 12 regional Task Forces covering all of the country with the exception of

Florida, where the South Florida Task Force had been operating under a different program since January 1982. The 12 Task Forces became operational in 1983. A 13th Task Force, in the Florida/Caribbean region, was added in 1984. (A map depicting the 13 Task Force regions is contained on page 36.)

Each Task Force region encompasses a number of federal judicial districts and has a major city, known as the "core-city," designated as the regional headquarters. Federal agencies participating in the Task Forces include the U.S. Attorneys' offices; the Drug Enforcement Administration (DEA); the Federal Bureau of Investigation (FBI); the U.S. Customs Service; the Bureau of Alcohol, Tobacco and Firearms (ATF); the Internal Revenue Service (IRS); the U.S. Marshals Service; and the U.S. Coast Guard. Consistent with the objective of fostering interagency coordination, state and local law enforcement agencies also participate in the Task Force program.

Task Force resources were intended to be an addition to existing federal drug law enforcement efforts, and positions were to be filled by experienced personnel from the participating agencies. In January 1983, authorization was received for 200 attorney positions and 1,000 agent positions for the initial 12 Task Forces. The first year of operations that these 12 Task Forces were at full-strength was 1984. The 13th Task Force, which started on October 1, 1984, had 26 attorneys and 131 agents assigned by the end of 1984. The attorney, agent, and U.S. Marshal positions allocated to the OCDETF Program--1,586 as of December 31, 1985--are spread throughout most of the 94 federal judicial districts, with the majority of the allocations in the core-cities. The following table shows various position allocations by agency as of December 1985.

United States General Accounting Office

GAO

Report to the Chairman, Subcommittee on
Information, Justice, and Agriculture,
Committee on Government Operations
House of Representatives

June 1987

DRUG SMUGGLING

Large Amounts of Illegal Drugs Not Seized by Federal Authorities

GAO/GGD-87-91

GAO United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-226654

June 12, 1987

The Honorable Glenn English
Chairman, Subcommittee on Government
Information, Justice, and Agriculture
Committee on Government Operations
House of Representatives

Dear Mr. Chairman:

This report responds to your request that we review the capabilities of the federal government to interdict illegal drug smuggling. We testified before your Subcommittee on the preliminary results of our review on September 9, 1986. As agreed with your office, our review focused on federal air and marine interdiction programs, which are primarily aimed at preventing drug smuggling across the southern border of the United States.

As arranged with your office, unless you publicly release its contents earlier, we plan no further distribution until 30 days after the date of this report. At that time, we will send copies to the Chairmen of the House Committee on Ways and Means and the Senate Committee on Finance, the Secretary of the Treasury, the Secretary of Transportation, the Attorney General, the Secretary of Defense, and other interested parties.

Sincerely yours,

W.J. Anderson

William J. Anderson
Assistant Comptroller General

Executive Summary

Purpose

Customs estimated that 136 tons of cocaine, 11,000 tons of marijuana, 7 tons of heroin, and 165 tons of hashish were smuggled into the United States in 1986. In fiscal year 1986 the federal government spent $822 million on drug interdiction programs— efforts to seize illegal drugs while they are being smuggled and thereby reduce the supply of illegal drugs within the United States.

At the request of the Chairman, Subcommittee on Government Information, Justice, and Agriculture, House Committee on Government Operations, GAO reviewed the air and marine drug interdiction programs of the Customs Service and the marine drug interdiction efforts of the Coast Guard. These programs account for most federal spending on drug interdiction.

Background

The Customs Service and the Coast Guard are the principal federal interdiction agencies. At the time of our review, Customs was the lead federal agency for air interdiction efforts aimed at controlling smuggling by private aircraft. However, Customs and the Coast Guard were assigned joint responsibilities for air interdiction in May 1987. The Coast Guard shares responsibilities with Customs for interdicting marine smugglers. The Department of Defense provides support for air and marine interdiction efforts. The Anti-Drug Abuse Act of 1986 authorized substantial increases in federal funding for drug interdiction. (See pp. 8 and 13.)

According to the National Drug Policy Board, most cocaine and marijuana are smuggled across the southern coastal and land borders of the United States from Florida to California. Air and marine interdiction efforts are primarily aimed at preventing drug smuggling across the southern border and mainly result in cocaine and marijuana seizures. (See pp. 14 to 17.)

Results in Brief

Relatively small proportions of the cocaine, marijuana, and other illegal drugs smuggled into the United States are seized by drug interdiction agencies. GAO could not determine whether drug interdiction efforts have prevented greater influxes of illicit drugs by increasing the smugglers' risks of apprehension. However, cocaine, marijuana, and other illegal drugs remain widely available.

There are several reasons for the federal government's inability to stop illegal drug smuggling. The amounts of equipment and numbers of staff devoted to interdiction leave large gaps in the interdiction system's coverage of the lengthy southern coastal and land borders of the United States. As a result, the system is unable to detect or respond to all illegal border crossings 24 hours a day. Smugglers use methods and tactics that exploit gaps in the interdiction system's coverage of the border and other weaknesses such as inadequate security over interdiction plans and operations. Interdiction agencies also are hindered by the lack of timely and accurate tactical intelligence—information about the identity, type, location, timing, and method of potential smuggling operations. Finally, the demand for illegal drugs makes smuggling highly profitable, which would encourage smugglers to continue their activities.

The increased resources for drug interdiction authorized by the Anti-Drug Abuse Act of 1986 should fill some gaps in the present interdiction system with more equipment and additional staff. However, smugglers have responded successfully to changes in the interdiction system in the past and may continue to do so.

GAO's Analysis

Drug Seizures Are Small Compared to Total Drug Imports

Interdiction agencies have seized substantial amounts of illegal drugs in recent years, but the seizures are small compared to the amounts successfully smuggled into the United States. Customs estimates that 70 percent of the cocaine seizures and 79 percent of the marijuana seizures occurred in the southeastern United States. (See pp. 38 to 40.)

Air Smuggling

Air interdiction efforts focus on drug smuggling across the southern border via private aircraft, which typically land illegally or airdrop drugs for pickup by marine and land vehicles. Air interdiction efforts primarily have resulted in cocaine and marijuana seizures, because these are the main drugs currently smuggled into the United States by private aircraft. (See pp. 14 and 16.)

There are weaknesses in the air interdiction system. Interdiction personnel and equipment do not operate around the clock. The southern border lacks 24-hour-a-day radar coverage with the ability to detect smuggling flights at low elevations. The coverage and detection capabilities of radar systems are especially limited along the southern coastal and land borders outside south Florida. Inadequate security measures allow smugglers to obtain sensitive information about interdiction plans and operations. Smugglers have adopted methods and tactics that take advantage of these weaknesses. (See pp. 19 to 26.)

The Anti-Drug Abuse Act of 1986 provided additional resources for air smuggling detection, which will increase the coverage and detection capabilities of radar systems along the southern border. (See p. 21)

Marine Smuggling

The Coast Guard's principal interdiction effort is against large ships transporting marijuana through the Caribbean. Coast Guard vessels routinely patrol the Caribbean and sea passages between the Caribbean islands in an effort to detect and apprehend freighters carrying marijuana before they can transfer their loads to small boats near the U.S. coastline. The Coast Guard also periodically conducts special marine interdiction operations using increased numbers of Coast Guard vessels and Navy vessels with Coast Guard personnel on board to patrol the Caribbean. (See pp. 26 to 29.)

The Coast Guard does not have sufficient personnel or vessels to detect and interdict all of the marine smugglers traveling through the Caribbean, and some marine smugglers are able to evade apprehension. (See pp. 27 to 29.)

Both the Coast Guard and Customs attempt to interdict drugs brought into coastal areas by small boats. Resources devoted to coastal interdiction efforts are limited compared with the extensive coastal area in which smugglers can operate and the volume of coastal smuggling traffic. It is therefore difficult for Customs and the Coast Guard to control drug smuggling in coastal waters. Smuggling methods, such as the use of secret compartments to conceal cocaine, increase the difficulty of apprehending coastal smugglers. (See pp. 29 to 32.)

Lack of Tactical Intelligence Is a Problem

Interdiction officials said the lack of timely and accurate tactical intelligence (information about the identity, type, locations, timing, and method of potential drug smuggling operations) adversely affects their ability to identify and apprehend smugglers. The federal government's stated strategy for drug law enforcement emphasizes the need to develop new sources and methods of intelligence collection. (See pp. 34 and 35.)

Recommendations

GAO is making no recommendations in this report.

Agency Comments

GAO did not obtain official agency comments on this report.

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Abbreviations

BLOC	Blue Lightning Operations Center
DEA	Drug Enforcement Administration
DOD	Department of Defense
FAA	Federal Aviation Administration
FBI	Federal Bureau of Investigation
GAO	General Accounting Office
NIDA	National Institute on Drug Abuse
NNBIS	National Narcotics Border Interdiction System

Chapter 1

Introduction

Interdiction is one of several law enforcement strategies the federal government uses to reduce the supply of illegal drugs in the United States. Most of the cocaine, marijuana, heroin, and hashish illegally consumed in this country is produced in other countries and smuggled into the United States. The objective of interdiction is to reduce the availability of illegally imported drugs by seizing drug smuggling shipments in transit or upon arrival before they penetrate U.S. borders.

The Department of the Treasury's U.S. Customs Service and the Department of Transportation's U.S. Coast Guard are the principal interdiction agencies. At the time of our review, Customs was the lead federal agency for drug interdiction efforts aimed at smuggling by private aircraft (air interdiction). However, on May 22, 1987, Customs and the Coast Guard were assigned joint responsibility for air interdiction efforts. Customs has primary responsibility for interdicting drug smugglers through ports of entry, where Customs inspectors are stationed to inspect cargo and passengers entering the United States, and across the land border between ports of entry. However, the Immigration and Naturalization Service's U.S Border Patrol has recently been granted increased interdiction authority along the Mexican border as part of a new drug enforcement initiative known as Operation Alliance.[1] The Coast Guard shares marine interdiction responsibilities with Customs in coastal waters (waters within 12 miles of the U.S. coastline) and is the primary interdiction agency on the high seas. In support of air and marine interdiction efforts, the Department of Defense (DOD) provides equipment and conducts operations aimed at detecting drug smugglers. Air and marine interdiction efforts primarily result in cocaine and marijuana seizures because these are the main drugs currently smuggled into the United States by private aircraft and marine vessels. However, smugglers could and may attempt to smuggle other drugs, such as heroin and hashish, by air and sea in the future.

In fiscal year 1986 the federal government spent about $627 million on air and marine interdiction efforts, including military equipment and operations in support of Customs and the Coast Guard, or about 76 percent of the total $822 million spent on all drug interdiction efforts. The Anti-Drug Abuse Act of 1986 authorized substantial increases in federal funding for drug interdiction. The federal government is expected to spend about $1,158 million on air and marine interdiction efforts in fiscal year 1987, or about 85 percent of total projected spending on drug interdiction.

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[1] Operation Alliance is a multi-agency effort begun in August 1986 to improve interdiction capabilities along the southwest border of the United States. (See p. 36 for details.)

Objective, Scope, and Methodology

In a letter dated August 21, 1985, the Chairman, Subcommittee on Government Information, Justice, and Agriculture, House Committee on Government Operations, asked us to examine and assess federal capabilities and activities relating to drug interdiction. On September 9, 1986, we testified before the Subcommittee on the preliminary results of our work.

As agreed with the Chairman's office, the scope of our review was limited to the air and marine interdiction programs of the Customs Service and the marine interdiction efforts of the Coast Guard, which are primarily aimed at preventing drug smuggling across the southern coastal and land borders of the United States. Our objective was to determine the strengths and weaknesses of the air and marine interdiction system. As agreed with the Subcommittee, we did not examine Customs' cargo inspection activities as part of this review. However, information on Customs' efforts to detect drugs in commercial cargo is included in our recent report on Customs'Cargo inspection process.[2] We also did not review Customs' procedures for inspecting international air passengers for drugs or the interdiction operations of Customs and the Immigration and Naturalization Service between ports of entry on the U.S. land border with Mexico.

To accomplish our objective, we interviewed Customs and Coast Guard headquarters and field officials and examined records at Customs and Coast Guard headquarters and field offices. We also interviewed officials and reviewed records of the Drug Enforcement Administration (DEA); the DOD, including the Air Force, Army, and Navy; the National Narcotics Border Interdiction System (NNBIS); and the National Drug Policy Board. To observe air and marine interdiction operations at the working level, we visited field locations where Customs, Coast Guard, and the military services conducted interdiction-related activities. A list of the field locations we visited is presented in table 1.1.

---

[2] Cargo Imports: Customs Needs to Better Assure Compliance With Trade Laws and Regulations (GAO/GGD-86-136, September 1986).

Table 1.1: List of Field Locations Visited, February to July 1986

Customs Air Facilities
Jacksonville, Florida
Miami, Florida
New Orleans, Louisiana
San Antonio, Texas
Houston, Texas
San Diego, California
Tucson, Arizona
El Paso, Texas
Customs Marine Facilities
Jacksonville, Florida
Miami, Florida
Key West, Florida
Houma, Louisiana
Galveston, Texas
San Diego, California
U.S. Coast Guard Facilities
Seventh District Office, Miami, Florida
Eighth District Office, New Orleans, Louisiana
Eleventh District Office, Long Beach, California
National Narcotics Border Interdiction Centers
Miami, Florida
Long Beach, California
New Orleans, Louisiana
El Paso, Texas
Drug Enforcement Administration Facility
El Paso Intelligence Center El Paso, Texas
Department of Defense Facilities
Tinker Air Force Base, Oklahoma
Norfolk Naval Air Station, Virginia
Miramar Naval Air Station, California

Because interdiction agencies feel that prior intelligence on specific drug shipments greatly aids their operations, we discussed the availability and use of such intelligence with the cognizant Customs, Coast Guard, and DEA officials. However, we did not review the actual collection, analysis, or dissemination of this intelligence by responsible federal agencies. In the course of our work, it was necessary to make extensive use of statistical data prepared by the agencies that we reviewed. We did not verify this data in most instances.

Our work was conducted from September 1985 to May 1987 in accordance with generally accepted government auditing standards. Field visits to interdiction units were conducted from October 1985 to July 1986. As requested by the Chairman, we did not obtain official agency comments on this report.

Federal Drug Abuse Control Strategy and the Drug Smuggling Threat

The Drug Abuse Problem

Drug abuse affects nearly every segment of our society, and the problem is growing. Cocaine, heroin, marijuana, and hashish, four widely abused illegal drugs, are produced primarily in foreign countries and smuggled into the United States. Table 2.1 shows the estimated number of Americans who have used these drugs.

Table 2.1: Estimates of Drug Abuse in the U.S. in 1985

(in millions of persons)

	Ever used	(Percent of population)[a]	Current user[b]	(Percent of population)[a]
Marijuana/ Hashish	61.94	(33%)	18.19	(10%)
Cocaine	22.24	(12%)	5.75	(3%)
Heroin	1.93	(1%)	[c]	[c]

[a] The survey on which this table is based covers only persons 12 years of age and older living in households in the contiguous United States. It excludes such groups as prison and jail inmates, military personnel living in installations, and the homeless.

[b] "Current user" is defined as someone who used a drug within the 30 days prior to the survey.

[c] The survey did not estimate the number of current users of heroin. However, the National Institute on Drug Abuse has estimated that there were about 490,000 heroin users in the United States from 1981 to 1984 and that the number increased slightly in 1985.

Source: 1985 National Household Survey on Drug Abuse, National Institute on Drug Abuse, issued October 1986.

As shown in table 2.2, thousands of persons have suffered adverse health effects requiring hospital emergency treatment or have died as a result of using illegal drugs.

Table 2.2: Drug-Related Emergency Room Visits and Deaths Reported by a Sample of Emergency Rooms and Medical Examiners, FY 1986[a]

	Emergency room visits	Deaths
Cocaine	15,116	812
Heroin	11,423	1,522
Marijuana	4,064	15[b]

[a] Visits and deaths reported by a small, nonrandom sample of emergency rooms and medical examiner facilities in metropolitan areas throughout the continental United States. Data does not include all emergency room visits and deaths.

[b] In combination with other drugs.

Source: National Institute on Drug Abuse, Drug Abuse Warning Network.

Cocaine has become a serious drug abuse threat in the United States because of its wide availability and use as well as the serious health hazards it poses. The National Institute on Drug Abuse (NIDA) estimates that the number of current cocaine users increased 38 percent from 1982 to 1985, from 4.2 million to 5.8 million. Statistics from NIDA's Drug Abuse Warning Network show that deaths and emergency room visits that were at least partially attributable to cocaine use have tripled since 1981. The recent introduction into the drug market of "crack," a form of cocaine that can be smoked, has increased the cocaine problem. Inhaling crack intensifies the effects of cocaine and is extremely addictive and hazardous. Crack is a growing problem in some major cities.

According to the 1985 NIDA survey, there were an estimated 18.2 million current users of marijuana and hashish in the United States. This was down from NIDA's estimate of 20 million users in 1982.

Heroin use has stabilized in recent years at about 500,000 regular users. Heroin-related injuries have risen, primarily because heroin is being used in combination with other drugs and because traffickers began importing a highly potent, inexpensive form of heroin known as "black tar" from Mexico in 1984.

Federal Drug Abuse Control Strategy

To combat the problem of drug abuse, the federal government employs a dual strategy of simultaneously reducing the supply of illicit drugs and the demand for these drugs. The federal supply reduction strategy is described in the National and International Drug Law Enforcement Strategy, issued in January 1987 by the National Drug Enforcement Policy Board.[1] Major components of the strategy include efforts to: (1) interdict and deter shipments of illicit drugs from foreign countries before they penetrate U.S. borders and enter the domestic distribution network (drug interdiction); (2) investigate, prosecute, and immobilize drug trafficking organizations; (3) control the diversion of legitimately produced drugs into the illicit drug market; (4) improve drug law enforcement intelligence; and (5) encourage foreign governments to reduce drug production within their countries, by providing assistance in carrying out eradication and interdiction operations and economic aid to counter the economic advantages of drug production (international initiatives). The Policy Board report identifies two major components of the federal demand reduction strategy: (1) drug abuse prevention and (2) drug abuse treatment.

Drug interdiction, the subject of this report, is one of the most expensive elements of the federal anti-drug strategy, as indicated in figure 2.1.

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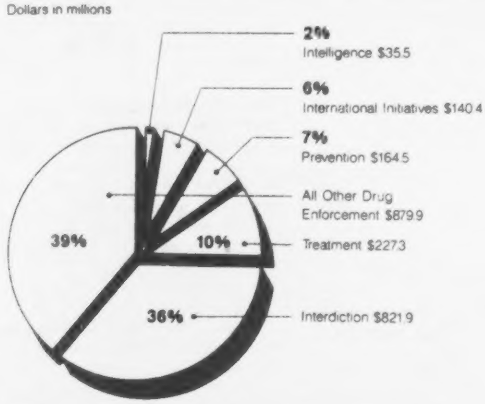
[1] The National Drug Enforcement Policy Board was established in 1984 with responsibility for coordinating federal drug enforcement policy and operations. By an Executive Order dated March 26, 1987, the Board was assigned additional duties and responsibilities and renamed the National Drug Policy Board. (See p. 37 for details.)

Figure 2.1: Fiscal Year 1986 Expenditures to Control Drug Abuse—Total $2,269.5 Million



The $821.9 million spent on interdiction programs in fiscal year 1986 represented 36 percent of the total $2,269.5 million in federal resources devoted to anti-drug efforts. The Anti-Drug Abuse Act of 1986 authorized substantial increases in spending for drug control programs, and these increases were appropriated for fiscal year 1987 by the Omnibus Drug Supplemental Appropriations Act of 1987. As a result, the federal government expects to spend nearly $4 billion on drug control programs in fiscal year 1987, including $1.37 billion on drug interdiction. (See table 2.3.)

Table 2.3: Federal Budget Authority for Drug Abuse Control by Strategic Category

Dollars in millions

	FY 1986	(% of total)	FY 1987	(% of total)
Interdiction	821.9	(36%)	1,369.3	(35%)
Intelligence	35.5	(2%)	53.5	(1%)
All other drug law enforcement[a]	879.9	(39%)	1,343.2	(34%)
International initiatives	140.4	(6%)	205.2	(5%)
Prevention	164.5	(7%)	505.4	(13%)
Treatment	227.3	(10%)	454.5	(12%)
Totals	**$2,269.5**	**(100%)**	**$3,931.1**	**(100%)**

Source: National and International Drug Law Enforcement Strategy, National Drug Enforcement Policy Board, January 1987

[a] Includes investigation, prosecution, corrections, regulatory and compliance, assistance to state and local agencies, and law enforcement-related research

The Drug Smuggling Threat[2]

Illicit drugs are produced in countries throughout the world and are exported to the United States and other markets through a complex, clandestine distribution chain. In general, cocaine and marijuana are produced in countries south of the United States (cocaine in South America; and marijuana in South and Central America, Mexico, and the Caribbean) and are smuggled across the southern tier of the United States from Florida to California. Most heroin is produced in Southeast and Southwest Asia and enters the United States across the Atlantic and Pacific coast borders. However, an increasing amount of heroin is produced in Mexico and is smuggled across the southwest border. Hashish is produced primarily in the Middle East and Southwest Asia and is smuggled through South Asian ports to the northeast coast of the United States. Customs estimates of the amounts of drugs entering the various geographic regions of the United States are presented in table 2.4.

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[2] This discussion of the drug smuggling threat is based on information contained in the National and International Drug Law Enforcement Strategy, National Drug Enforcement Policy Board, January 1987, as well as information supplied by Customs and Coast Guard intelligence units.

Table 2.4: Amounts of Drugs Estimated to Have Entered the United States in 1986

In Pounds

Region	Drug	Amount
Northeast	Marijuana	902,000
	Hashish	148,500
	Cocaine	825
	Heroin	260
New York	Marijuana	528,000
	Hashish	99,000
	Cocaine	11,000
	Heroin	5,850
North Central	Marijuana	110,000
	Hashish	6,600
	Cocaine	825
	Heroin	650
Pacific	Marijuana	2,882,000
	Hashish	33,000
	Cocaine	20,625
	Heroin	4,290
Southwest	Marijuana	5,522,000
	Hashish	6,600
	Cocaine	29,700
	Heroin	1,690
South Central	Marijuana	2,046,000
	Hashish	3,300
	Cocaine	11,275
	Heroin	130
Southeast	Marijuana	10,010,000
	Hashish	33,000
	Cocaine	200,750
	Heroin	130

Source: U.S. Customs Service, Office of Intelligence

Smugglers have responded flexibly to U.S. interdiction efforts using indirect routes and varying their methods of operation. They choose points of entry where they expect to encounter the least resistance from law enforcement organizations. For example, most cocaine is smuggled from Colombia to the southeastern border of the United States, often by way of the Bahamas. However, according to Customs intelligence reports, traffickers are increasingly transporting cocaine loads through Mexico for entry into the United States along the southwest border. Cocaine smugglers can choose from a variety of transportation modes because valuable quantities of cocaine can be shipped in relatively small loads that are easily concealed.[3] Based on the Customs Service's 1986 estimates, commercial and private aircraft and private marine vessels all were used extensively to smuggle cocaine into this country. (See table 2.5.)

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[3] According to DEA, a kilogram (2.2 lbs.) of cocaine has a wholesale value of $20,000 to $40,000.

Table 2.5: Estimated Amounts of Drugs Smuggled Into the United States by Transportation Mode, CY 1985

In Thousands of Pounds

	Marijuana	Hashish	Cocaine	Heroin
Aircraft				
Private	3,540.3	1.5	52.4	.1
Commercial	150.2	36.3	61.4	6.1
Total air	**3,690.5**	**37.8**	**113.8**	**6.2**
Vessel				
Private	12,388.9	162.3	93.0	0.0
Commercial	1,984.0	122.7	50.8	2.2
Total vessel	**14,372.9**	**285.0**	**143.8**	**2.2**
Land vehicle				
Private	375.2	5.1	3.9	3.4
Commercial	1,874.6	1.9	9.9	.5
Total vehicle	**2,249.8**	**7.0**	**13.8**	**3.9**
Other Transportation modes	1,686.8	0.2	3.6	.7
All Transportation modes grand totals	**22,000.0**	**330.0**	**275.0**	**13.0**

Source: U.S. Customs Service, Office of Intelligence

About 81 percent of the marijuana available in the United States in 1985 was produced abroad, and the remaining 19 percent was grown domestically. Marijuana cultivated in Mexico makes up the largest share of the U.S. market, accounting for about 40 percent in 1985. About 38 percent of the marijuana available in this country in 1985 came from Colombia. Other countries exporting marijuana to the United States in significant quantities include Jamaica and Belize.

Marijuana from Colombia, Jamaica, and Belize is normally shipped to the United States aboard large freighters referred to as "motherships." Motherships usually carry loads of between 5 and 50 tons of marijuana (and occasionally carry smaller loads of cocaine). They typically anchor 50 to 100 miles off the U.S. coast in international waters and unload the marijuana onto smaller vessels that bring it ashore. Mexican marijuana is smuggled across the U.S. border in amounts ranging from a few pounds up to several tons depending on the mode of transportation employed. Pedestrians, automobiles, campers, and trucks have all been used by traffickers to transport marijuana across the border. Smugglers also use private aircraft to convey marijuana from Colombia and Mexico into the United States. (See table 2.5.)

Hashish, which is a concentrated form of the drug contained in marijuana plants, is mainly produced in Lebanon, Pakistan, and Afghanistan according to the January 1987 report by the National Drug Enforcement Policy Board. Customs estimates indicate that most hashish enters the United States along the northeast coast. (See table 2.4.)

Heroin comes into the United States from three primary opium-producing areas: Southwest Asia, including Afghanistan, Iran, and Pakistan; Southeast Asia, including Burma, Thailand, and Laos; and Mexico. In 1985, DEA analyzed a number of seized heroin samples to determine their region of origin. The DEA analysis found that 47 percent of the analyzed heroin came from Southwest Asia, 39 percent from Mexico, and 14 percent from Southeast Asia. Southwest Asian heroin primarily enters east coast cities, especially New York City, while Southeast Asian heroin comes into the country through west coast cities. (See table 2.4.) Asian heroin arrives in the United States mainly by way of commercial air passengers and air cargo. Mexican heroin, including the potent black tar, is smuggled across the border by land vehicles, aircraft, and pedestrians.

Federal Interdiction Efforts Have Been Insufficient to Stop Illegal Drug Smuggling

Large amounts of cocaine, marijuana, and other illegal drugs are smuggled into the United States, but relatively small proportions are seized by drug interdiction agencies. There are several reasons for the federal government's inability to stop illegal drug smuggling. The amounts of equipment and numbers of staff devoted to drug interdiction efforts leave large gaps in the interdiction system's coverage of the lengthy southern coastal and land borders of the United States. As a result, the system is unable to detect or respond to all illegal border crossings 24 hours a day. Smugglers use methods and tactics that exploit gaps in the interdiction system's coverage of the border and other weaknesses in the interdiction system, such as inadequate security over interdiction plans and operations, in order to avoid detection and apprehension by interdiction agencies. Interdiction efforts also are hindered by the lack of timely and accurate "tactical" intelligence: information about the identity, type, location, timing, and method of potential drug smuggling operations that helps interdiction agencies to identify and apprehend drug smugglers. Finally, the demand for illegal drugs makes smuggling highly profitable, which would encourage smugglers to continue their activities.

Federal Drug Interdiction Strategy

The current federal drug interdiction strategy is described in a report entitled National and International Drug Law Enforcement Strategy, issued by the National Drug Enforcement Policy Board dated January 20, 1987. (The Board is now known as the National Drug Policy Board.) According to the Board:

> "The primary objective of the drug interdiction strategy is to reduce the amount of illegal drugs entering the United States. Interdiction focuses on the detection, identification, and interception of shipments of illegal drugs as they move from departure points in source countries, along smuggling routes to our land, sea, and air borders. Successful interdiction programs deter potential traffickers from entering the drug trade, disrupt the flow of drugs into the United States, and force traffickers to develop more expensive methods to avoid detection and use longer, more difficult smuggling routes."

The U.S. Customs Service and the U.S. Coast Guard are the federal agencies primarily responsible for drug interdiction. The Drug Enforcement Administration and the Department of Defense also are involved in drug interdiction, mainly in support of Customs and the Coast Guard. The Immigration and Naturalization Service has recently been given increased responsibility for drug interdiction efforts, primarily along the southwest land border. The National Narcotics Border Interdiction System (NNBIS) and the National Drug Policy Board are responsible for coordinating federal interdiction programs. The Policy Board is also responsible for formulating the federal government's interdiction policy and strategy.

The federal government has devoted substantial funds in recent years to drug interdiction efforts, as shown in table 3.1.

Table 3.1: Federal Interdiction Funding, FY 1981 - FY 1987

Dollars in millions

Fiscal year	Budget authority
1981	394.0
1982	502.0
1983	522.2
1984	757.2
1985	861.5
1986	821.9
1987	1,369.3

Air Smuggling[1]

At the time of our work, the Customs Service was primarily responsible for detecting, intercepting, tracking, and apprehending aircraft attempting to smuggle illicit drugs into the United States. However, on May 22, 1987, the National Drug Policy Board directed Customs and the Coast Guard to be jointly responsible for air interdiction. Customs now has primary responsibility for all aspects of air interdiction along the southwest land border. Along the southeast coastal border, the Coast Guard has primary responsibility for surveillance and detection, while Customs has primary responsibility for interception, tracking, and apprehension. This discussion of air smuggling focuses on Customs air interdiction operations since Customs had primary responsibility for air interdiction during the period covered by our review.

Customs' air interdiction program is carried out by eight aviation branches and seven smaller aviation units, most of which are located along the southern border of the United States. (See figure 3.1.)

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[1] This discussion of air smuggling is primarily based on information obtained from Customs' Office of Aviation Operations, field visits to Customs air interdiction units, and information supplied by Customs intelligence units and NNBIS.

Figure 3.1: Customs Aviation Branches and Units

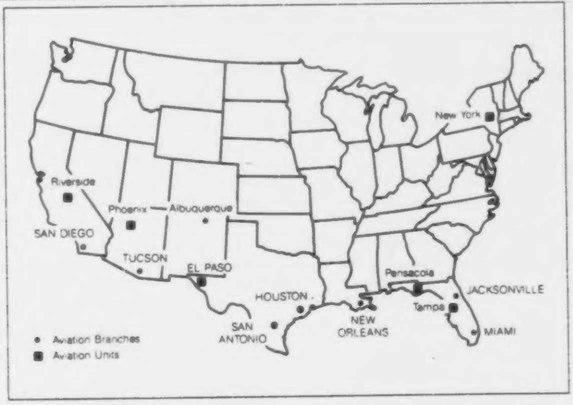

New York
Riverside
SAN DIEGO
Phoenix
Albuquerque
TUCSON
EL PASO
HOUSTON
SAN ANTONIO
NEW ORLEANS
Pensacola
JACKSONVILLE
Tampa
MIAMI
● Aviation Branches
■ Aviation Units

Table 3.2 shows the type and deployment of the aircraft Customs uses for detecting and capturing drug smugglers. A total of 92 aircraft were distributed among the aviation branches and units as of January 1987. Customs sometimes moves these aircraft from location to location.

Table 3.2: Type and Deployment of Customs' Aircraft

Customs Air Branch[a]	P3A[b]	Interceptors	Trackers	Blackhawk Helicopters	Other Airplanes	Other Helicopters	Total
Miami		2	2	2	7	1	14
Jacksonville		1		1	10	2	14
New Orleans		1	2	1	4	1	9
San Antonio		1	2		4	1	8
Houston			2		4	1	7
Albuquerque			1		5	2	8
Tucson	4	1	2	2	10	2	21
San Diego			1	2	5[c]	3	11
Total	**4**	**5**	**12**	**8**	**49**	**13**	**92**

[a] Includes resources of associated air units

[b] P3As are surveillance aircraft used as airborne radar platforms to detect air smugglers

[c] Includes one jet aircraft that lacks the sensor equipment needed to perform intercept missions

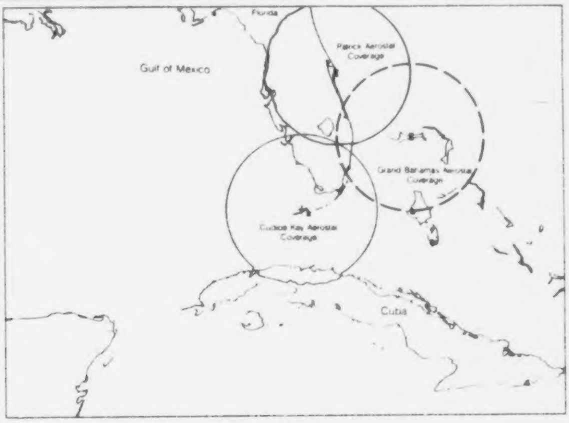
Source U.S. Customs Service, Office of Aviation Operations

The Anti-Drug Abuse Act of 1986 authorizes the procurement of seven additional radar equipment tethered balloons (known as aerostats) most of which will be deployed along the southern border outside south Florida. The act also authorized the Navy to loan two E2C surveillance aircraft to Customs and two E2C aircraft to the Coast Guard. Customs expects to deploy the two E2Cs along the southwest border for use in detecting air smugglers. The Coast Guard plans to use its two E2Cs primarily to detect air smugglers off the southeast coast of the United States.

Adequate staff and equipment to carry out all aspects of the air interdiction process—detection, interception, tracking, and apprehension—are necessary if air interdiction efforts are to be fully successful. None of Customs' air branches has sufficient personnel and equipment to work around the clock, 7 days a week. In Miami the Customs air branch currently operates 16 hours a day, 7 days a week. Other air branches operate fewer hours per week than the Miami air branch.

In south Florida, Customs relies heavily on monitoring radar signals from equipment attached to three aerostats and from the Federal Aviation Administration (FAA) radar system to detect suspected air smugglers. The aerostats are located at Patrick Air Force Base, Florida; Cudjoe Key, Florida; and in the Grand Bahamas. They allow Customs to detect aircraft flying at low altitudes. Smugglers are known to fly at low altitudes so as to avoid FAA radar. Figure 3.2 shows the radar coverage provided by the aerostats.

Figure 3.2: South Florida Aerostat Radar Coverage


Florida
Patrick Aerostat Coverage
Gulf of Mexico
Grand Bahamas Aerostat Coverage
Cudjoe Key Aerostat Coverage
Cuba

Source: U.S. Customs Service

Outside south Florida, Customs relies heavily on four P3A surveillance aircraft to detect drug smugglers who fly at low elevations. This is necessary because the North American Air Defense System and FAA radar system, which provide coverage of large segments of the southern border outside of south Florida, have limited capabilities for detecting the small low-flying aircraft generally used by smugglers. The military services also conduct surveillance missions in support of Customs air interdiction efforts, using radar-equipped aircraft—the Air Force AWACS and the Navy E2C—which have a much greater radar capability in terms of distance and area coverage than Customs P3A aircraft.[2]

To the extent it is available, Customs relies on tactical intelligence (information on the identity, type, location, timing, and method of potential smuggling operations) to enhance its air interdiction efforts.

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[2] Military support for drug interdiction efforts is discussed on pp. 32 and 33.

Customs has established investigative units co-located with its aviation branches that provide intelligence support to Customs air operations. In addition, DEA agents stationed in foreign source countries and U.S. intelligence agencies may provide information to Customs on specific smuggling operations. However, gathering such tactical intelligence is of secondary concern to DEA.[3]

Customs' fiscal year 1988 budget submission listed 273 positions assigned to its air interdiction program in fiscal year 1986 and estimated that 442 personnel would be assigned to the program in fiscal year 1987. A 1985 Customs air interdiction 5-year plan calls for an increase in staffing to 1,109 in fiscal year 1990. According to the plan, the increase in staffing will allow Customs to keep all aviation branches and other operating sites on a continuous alert to respond to detections of air smuggling attempts.

Funding for Customs' air interdiction programs is shown in table 3.3. The large increase in fiscal year 1987 reflects the additional funding provided by the Anti-Drug Abuse Act of 1986.

Table 3.3: Budget Authority for Customs' Air Interdiction Program FY 1982 - FY 1987

Dollars in millions

	Budget Authority
FY 1982	21.0
FY 1983	24.8
FY 1984	65.5
FY 1985	66.6
FY 1986	87.9
FY 1987	199.1

Smugglers Have Numerous Opportunities to Penetrate the Air Interdiction System Without Detection

Along the entire southern border of the United States, there are various radar systems for detecting airborne drug smugglers. These systems include aerostat radars, Customs P3A surveillance aircraft, military surveillance aircraft, land-based military radars, and FAA radars. However, gaps in the radar coverage provide opportunities for smugglers to enter the United States without being detected. For example, smugglers may avoid the threat of detection by aerostat radars by flying when the aerostats are not operating. Because the aerostats are at fixed locations, smugglers are able to visually determine when the aerostats are aloft and schedule their smuggling attempts accordingly.

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[3] Tactical intelligence is discussed on pp. 34 and 35.

According to Customs records, the Customs aerostat in the Grand Bahamas operated 43 percent of the total hours in fiscal year 1986. The Air Force aerostat in Cudjoe Key operated 47 percent of the time in fiscal year 1986. The Air Force aerostat at Patrick Air Force Base operated 23 percent of the time during fiscal year 1986 but was grounded from January to July 1986. Although there is some overlap of coverage by these three aerostats, there are areas without radar coverage when one of the aerostats is not operating. Those coastal areas left without aerostat coverage are still monitored by FAA radar, but this radar is not effective in detecting small, low-flying aircraft used for drug smuggling.

Radar surveillance by aircraft, unlike aerostat radar surveillance, denies smugglers the opportunity to visually determine where and when air surveillance is in operation. However, this advantage is offset by the limited time that surveillance aircraft operate and the wide area of the southern border that they monitor. In addition, the radars on Customs' P3A surveillance aircraft cover an area extending less than 100 miles in front of the aircraft, limiting their ability to detect targets. P3As must also be out of service at times in order to receive routine maintenance. During fiscal year 1986, the four Customs' P3A aircraft were flown a total of 2,020 hours. Individual aircraft rarely were flown more than 100 hours a month and most of the time were flown less than 60 hours a month. In comparison, there are about 720 hours each month in which smugglers can attempt to enter the United States.

Military surveillance aircraft extend Customs' surveillance capability; however, military readiness and training requirements limit the number of missions these aircraft can fly in support of Customs' interdiction efforts. The National Narcotics Border Interdiction System (NNBIS) meets with military service representatives quarterly to balance Customs' requests for surveillance with what the military services are able to contribute.

Because of the limitations of the P3A radar, and because military aircraft surveillance assistance has been limited, radar coverage has been very limited along the southern coastal and land border outside south Florida. Customs officials said they expect that the seven new aerostats and two E2C aircraft to be added to Customs' equipment as a result of the Anti-Drug Abuse Act of 1986 will substantially improve radar coverage along the southern border.

Limitations of Radar Detection

Radar has inherent limitations in accurately sorting out smuggling flights from other air traffic, and it is usually unable to identify the most significant target in multiple target situations.

Customs identifies suspect flights from radar sightings by using clues that distinguish suspect aircraft from legitimate air traffic. Clues include the absence of a flight plan, signals from electronic tracking devices covertly installed by Customs personnel on the aircraft, low-flying aircraft, and an aircraft flying in a circular pattern as if the pilot is searching for a drop site. However, these clues are fragile evidence and sometimes are exhibited by legitimate flights. For example, in April 1986, the Miami Aviation Branch intercepted nine flights on a heading toward south Florida, but five later proved to be legitimate flights. Of these, two were identified as suspect because of radar malfunctions and three because the pilots' flight plans were not accessible to Customs at the time radar detection occurred.

Even though radar detection provides only clues, Customs usually has no choice but to launch intercept aircraft within minutes after suspect flights are identified on radar. Unless a Customs aircraft can intercept and identify the tail numbers of an aircraft without a registered flight plan before it crosses the U.S. border, Customs cannot distinguish the aircraft as a foreign arrival after it mixes with domestic air traffic, thus losing the ability to track the aircraft to its point of landing.

A potentially serious consequence may result from launching Customs aircraft to intercept flights that appear suspect on radar but turn out to be legitimate flights. Until a suspect flight's legitimacy is confirmed, Customs, with its limited number of interceptor, tracker, and apprehension aircraft and flight crews, is left with a critically weakened ability to respond to another target that could be an actual smuggling attempt. Thus, Customs is vulnerable to smugglers luring their scarce enforcement aircraft away from drug flights by first launching a "profile-fitting" flight without drugs aboard.

Smugglers also may avoid raising suspicions on radar by following legitimate flight patterns and airdropping drug loads to accomplices in boats or on land before or after crossing the border. After the air drop is made, the smuggling aircraft may then land and go through normal Customs processing or may exit United States airspace beyond Customs jurisdiction..

According to Customs personnel involved in interdiction operations, airdrops increasingly are being used by smugglers to place drugs in the Bahamas for later shipment into the United States by small boats. Customs and DEA are currently providing assistance to the Bahamian government in its efforts to apprehend drug smugglers. The absence of international airspace makes airdrops especially effective for smugglers crossing the U.S.-Mexican border. Pilots may fly normally in Mexican airspace up to the border without arousing suspicion, and then cross into the United States. They then may choose either to land on one of many isolated private landing strips along the border and quickly unload or airdrop the load and retreat into Mexican territory beyond reach of Customs pursuit.

Marine Smuggling[4]

The Coast Guard's principal interdiction role is to apprehend freighters known as motherships sailing outside U.S. coastal waters with large loads of marijuana. Coast Guard and Customs share responsibility for interdicting cocaine and marijuana smugglers in coastal waters.

Coast Guard Interdiction Activities

The Coast Guard's strategy for interdicting drugs on the high seas is geared toward stopping motherships coming from the northern coast of Colombia. These motherships usually carry loads of between 5 and 50 tons of marijuana and occasionally carry smaller loads of cocaine. They typically travel through the Caribbean to unloading points in the waters off the western Bahamas and off the U.S. coastline. The Coast Guard's main line of defense against motherships consists of large ships called cutters that patrol international waters between the Caribbean islands through which motherships traveling from South America must pass to exit into the Gulf of Mexico or the Atlantic Ocean. These "chokepoints" as they are called by the Coast Guard include the inter-island channels in the Antilles; the Windward Passage separating Cuba and Haiti; the Yucatan Channel, between Mexico and Cuba; and the Mona Passage separating the Dominican Republic and Puerto Rico. Figure 3.3 depicts these chokepoints, as well as the routes normally used by motherships.

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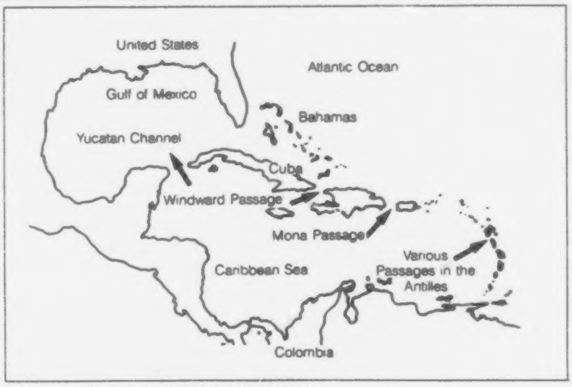
[4] This discussion of marine smuggling is primarily based on information obtained from Customs' Office of Enforcement, Coast Guard headquarters and district offices, field visits to marine interdiction units, and information supplied by Coast Guard and Customs intelligence units and NNBIS.

Figure 3.3: Maritime Chokepoints in the Caribbean


United States
Atlantic Ocean
Gulf of Mexico
Bahamas
Yucatan Channel
Cuba
Windward Passage
Mona Passage
Various Passages in the Antilles
Caribbean Sea
Colombia

Note: Arrows indicate routes normally used by motherships.

Source: Our map is based on data provided by the U.S. Coast Guard

Funding for the Coast Guard's interdiction efforts is shown in table 3.4.

Table 3.4: Budget Authority for Coast Guard Interdiction Efforts Compared With Total Budget Authority FY 1982 - FY 1987

Dollars in millions

	FY1982	FY1983	FY1984	FY1985	FY1986	FY1987
Total Coast Guard budget authority	2,525.5	2,455.2	2,779.5	2,592.4	2,311.9	2,583.9
Coast Guard interdiction budget authority[a]	328.9	359.9	508.2	506.6	397.8	547.9
Interdiction budget authority as a percentage of total budget authority	13%	15%	18%	20%	18%	23%

[a] Includes funding for both high seas and coastal interdiction efforts.

Coast Guard Interdiction Resources Are Insufficient to Stop Mothership Operations

Coast Guard officials have acknowledged that they do not have enough cutters to control mothership operations even in the chokepoints and that mothership operators have many options to avoid the Coast Guard patrols. Further, they believe that some mothership operators evade Coast Guard interdiction efforts.

The Coast Guard could not provide information on the hours its cutters spend in the passages monitoring traffic; however, a Coast Guard official estimated that in a recent 2-year period, they have had at least one cutter in the Yucatan Channel 97 percent of the time, in the Windward Passage 98 percent of the time, and in the Mona and the Anegada (in the Antilles) Passages 36 percent of the time. These percentages include times when the cutters were performing functions other than drug interdiction surveillance, such as search and rescue or towing vessels to shore. Therefore, there are times when smugglers can pass through the chokepoints without being detected by Coast Guard surveillance.

Coast Guard officials said that special operations conducted with the Navy have demonstrated the potential for closing smuggling routes in the Caribbean, but the level of effort required for special operations cannot be sustained indefinitely because the personnel and equipment involved are diverted from the Coast Guard's other missions. Coast Guard officials told us that smugglers are able to determine the location of Coast Guard patrols by aerial surveillance and then schedule mothership operations along routes where the Coast Guard is not present.

At the time of our review, the Coast Guard had a total operational fleet of about 44 large cutters (180 feet to 378 feet in length), and 75 smaller patrol boats (82 feet to 110 feet in length) that perform various Coast Guard missions at sea. Not all of these vessels are used by the Coast Guard for drug interdiction operations. The Coast Guard primarily uses cutters assigned to the Seventh Coast Guard district in Miami for drug interdiction efforts outside coastal waters. At the time of our review, there were 9 cutters, 16 patrol boats, and 3 high-speed vessels specifically designed for interdiction assigned to the Seventh District. The Coast Guard also temporarily assigns cutters from other Districts to the Seventh District.

Coast Guard personnel are also deployed on Navy ships as tactical law enforcement teams. When Navy ships are expecting to sail in an area of interest to the Coast Guard for drug interdiction purposes, the Coast Guard will assign a team to the Navy ship. The Coast Guard team maintains a lookout for possible smugglers and conducts any boardings that may be necessary.

The Coast Guard has recently added to its capability to challenge mothership operations and further increases are planned. In 1986, the Coast Guard's Seventh District received eight new patrol boats that can sail at higher speeds than older patrol boats. The Coast Guard plans to use the new boats in joint operations with large cutters in the chokepoints and, as noted below, in coastal interdiction efforts. The new boats enhance surveillance capability, provide more boarding platforms, and add towing capability. Using these vessels to tow smuggling vessels into port will allow the large cutters to remain on station after seizing a drug load.

To add to its surveillance capabilities, the Coast Guard is purchasing eight radar units mounted on aerostats and tethered to vessels for service in the chokepoints and in the Pacific coastal area. The aerostat radars have a surveillance range of about 70 miles, depending upon weather conditions and the type of vessel that is the radar's target, as compared to about 24 miles for shipboard radars used on cutters.

Controlling Drug Smuggling in Coastal Waters Is Difficult

The Customs Service and the Coast Guard are jointly responsible for intercepting and seizing shipments of drugs in small boats that penetrate U.S. coastal waters. Resources devoted to coastal interdiction efforts are limited compared with the extensive coastal area in which smugglers can operate and the volume of coastal smuggling traffic. It is therefore difficult for Customs and the Coast Guard to control drug smuggling in coastal waters. The interdiction agencies have made efforts to improve their ability to detect smugglers in coastal waters. However, detection does not ensure interdiction, especially against smugglers who use secret compartments to conceal cocaine, or small fast boats that limit the reaction time available to Customs and the Coast Guard after detection.

Smugglers use high-speed motorboats, sailboats, motor yachts, and fishing vessels to bring loads directly from drug source countries, from Caribbean islands used as storage or shipment points, and, as previously mentioned, from motherships anchored off the United States coast. Some smugglers attempt to blend in with the majority of law-abiding marine traffic. In addition, operators of small boats arriving in the United States from foreign countries may legally enter the United States between ports of entry if they declare goods they have brought to the United States within 24 hours. Thus, the threat of routine Customs inspection is not necessarily a deterrent, nor is a boat approaching the coast away from a port of entry even cause for suspicion. The Customs Service has estimated that the smuggling threat from small boats is most pronounced on the southeast coast.

Customs' coastal interdiction operations are carried out by 60 marine stations that are located mainly along the southern U.S. coast. Customs maintains a fleet of 222 vessels, including radar-equipped surveillance vessels that have radar platforms, high-speed interceptors that are used primarily for coastal interdiction, and utility boats that are primarily used for support purposes. The location and type of these vessels is shown in table 3.5.

Table 3.5: Location of Customs' Boats by Customs Region

Customs regions	Radar platforms	Interceptors	Utility	Total
Southeast	19	92	32	143
South Central	4	5	13	22
Southwest	4	6	10	20
Pacific	5	6	13	24
Northeast	0	1	1	2
New York	2	4	4	10
North Central	0	0	1	1
Total	**34**	**114**	**74**	**222**

Customs' marine strategy emphasizes the use of investigations to develop leads on marine smuggling operations. Customs has reassigned some personnel, who previously conducted marine patrols as investigators, to gather information about smuggling activities. Customs' strategy also calls for using radar platforms in combination with its newly acquired high-speed boats to detect and intercept smuggling craft within coastal waters. During our field work in 1986, Customs had not fully implemented this strategy. For example, we observed that random patrols to visually identify suspect smugglers continued to be emphasized by the Miami marine unit.

Customs is currently using land-based radars in Miami and Houston to identify suspected smugglers in adjacent coastal waters. To counter the heavy smuggling traffic Customs believed to be entering the coastal waters off south Florida, Customs initiated the development of a marine operations center in Miami to coordinate the use of federal, state, and local marine resources in interdicting suspect vessels. This center, known as the Blue Lightning Operations Center (BLOC), began operations in April 1986. The center receives radar information from the aerostats in south Florida and from radars that Customs has installed on condominium rooftops at points along the south Florida coastline. This radar coverage is intended to allow the center to continuously monitor maritime traffic and detect potential targets in the coastal waters off southern Florida. The center does not direct the deployment of marine enforcement resources, but rather identifies and contacts law enforcement boats in the vicinity of suspected smuggling activity the center has detected. Signals from transmitters provided by Customs and placed aboard law enforcement boats allow BLOC personnel to determine the location of the law enforcement boats.

Another BLOC began operating in Houston in November 1986. This center is designed to operate like the one in Miami and is responsible for the Gulf of Mexico along the southwest coast of the United States.

Funding for Customs' marine interdiction program is shown in table 3.6. The large increase in fiscal year 1985 is mainly attributable to a $12 million supplemental appropriation for the purchase of 40 interceptor boats and construction of the Miami BLOC.

Table 3.6: Budget Authority for Customs Marine Program FY 1982 - FY 1987

Dollars in millions

Fiscal year	Budget authority
1982	11.9
1983	11.4
1984	24.6
1985	43.3
1986	33.8
1987	24.2

The main area in which the Coast Guard is involved in coastal drug interdiction operations is south Florida, in the Coast Guard's Seventh District. Coast Guard boats patrol the sea lanes between the Bahamas and south Florida in search of small boats smuggling drugs. Coast Guard and Customs officials note that smugglers often use the Bahamas as a drop-off point for drug shipments transported from South America by air and sea and bound for the United States. Coast Guard officers in the Seventh District told us that most of the Coast Guard boats used for coastal interdiction are slower than the small fast boats smugglers now commonly use to bring drug loads to shore. They said the eight high-speed patrol boats delivered to the Seventh District in 1986 will improve the Coast Guard's ability to catch coastal smugglers using fast boats. The Coast Guard does not separately report the budget it devotes to its coastal interdiction efforts. Funding for its coastal interdiction operations is included in the total Coast Guard interdiction budget figures presented in table 3.4.

Coast Guard and Customs officials involved in marine interdiction said smugglers use secret compartments for cocaine smuggling that are difficult for marine interdiction units to detect. Searching certain types of vessels, such as yachts, for cocaine requires considerable time and damages the vessel. This makes random boardings impractical as a tactic for interdicting cocaine shipments. Only a few boats can be boarded and searched for cocaine with the interdiction resources available. For example, we observed two local enforcement officers and one Customs officer spend 4 hours searching one vessel for concealed compartments.

Military Support for Air and Marine Interdiction Efforts

Since the passage of the Posse Comitatus Act Amendment in December 1981, which clarifies the role that the military may play in assisting civilian law enforcement agencies, the military has played an increasing role in federal drug interdiction efforts. One of its main contributions has been airborne radar coverage of areas thought by Customs and Coast Guard to be major air and marine smuggling routes. Air Force AWACS and Navy E2 aircraft, which are equipped with wide-area coverage, long-range radar systems, have flown numerous missions to detect aircraft smuggling drugs across the border. Military aircraft also provide interdiction support in other ways. DOD aircraft take aerial photographs along potential smuggling routes. Marine Corps aircraft are used to visually identify and track suspect aircraft until a Customs interceptor is launched.

Other military support is provided to interdiction agencies in a variety of forms. Since 1983, Air Force helicopters, operated by Air Force personnel, have transported Bahamian law enforcement teams on drug apprehension missions in the Bahamas. This effort also involves DEA and is known as Operation Bat. As previously discussed, Coast Guard law enforcement teams have been stationed aboard Navy ships on maneuvers in the Caribbean in order to board suspect vessels encountered by the Navy ships. In addition, the Army has loaned equipment such as helicopters to interdiction agencies.

Direct expenses incurred by DOD in providing assistance to civilian drug interdiction agencies as a by-product of training and readiness missions, plus direct appropriations for drug law enforcement missions are shown in table 3.7.

Table 3.7: Estimated Cost of Department of Defense Interdiction Support FY 1982 - FY 1987

Dollars in millions

Fiscal year	Estimated cost[a]
1982	4.9
1983	9.7
1984	14.6
1985	54.8
1986	107.7
1987	386.5

[a] Includes direct appropriations for drug law enforcement missions in the following amounts: $38 million in FY 1986 and $314 million in FY 1987.

Source: National and International Drug Law Enforcement Strategy, National Drug Enforcement Policy Board, January 1987.

The above figures include the costs of assistance provided by all branches of the military. The following examples gathered in the course of our review illustrate the dimensions of the military's role in drug interdiction. The Air Force reports that from fiscal year 1984 through fiscal year 1986, AWACS aircraft flew 147 surveillance training missions specially designated to fly in areas of interest to Customs and about 1,000 regular surveillance training missions in areas of general interest to interdiction agencies. In fiscal year 1986, AWACS aircraft flew 62 specially designated missions. Air Force records show that the cost of specially designated AWACS missions flown in calendar year 1985 was about $4 million. Navy E2 aircraft flew 1,048 surveillance missions in support of drug interdiction agencies from fiscal year 1984 through fiscal year 1986, including 370 missions in fiscal year 1986. The Navy reports that from fiscal year 1982 through fiscal year 1985, E2 aircraft drug interdiction missions cost $5 million.

Insufficient Security Reduces Interdiction Capabilities

The interdiction system's resources—particularly radars used to identify smuggling attempts and the aircraft and vessels used to respond when suspects are identified—are limited in number and are not operating at all times. Interdiction agency officials said smugglers can use information on when equipment and personnel are operating to avoid detection. The extent to which smuggling organizations gather information to reduce their risks is not known, but security breaches have occurred. For example, the starting date of a major interdiction operation named Operation Blue Lightning had to be moved up 72 hours because smugglers obtained advance information about the operation through a security breach. Without adequate security procedures to govern the handling of sensitive information as it passes to and from those who need to know, security breaches may occur. The following examples, based on discussion with interdiction officials and our own observations, illustrate how espionage can negate the effectiveness of interdiction efforts. We do not know how often smugglers have employed these tactics.

- Knowledge of the duty hours of Customs' radar watch personnel, who monitor the extensive network of radars beamed at smuggling traffic by air into south Florida, allows smugglers to choose the time to leave with their loads to minimize their risk of detection. This information can be obtained by observing the arrival and departure of Customs' watch personnel at their work sites.
- Knowledge of when the Coast Guard cutters are in the chokepoints, which can be monitored by use of air patrols, could allow smugglers to choose the time and the particular marine passage they will use to evade detection.
- Knowledge of the radar surveillance capabilities to spot low-flying aircraft along most of the U.S. borders, outside south Florida, can be used to plan points of border entrance with minimal risk of detection. The vulnerabilities of the radar detection system along parts of the southwest border were published in a metropolitan newspaper, which graphically showed the elevations between geographical points at which radar surveillance did not exist.

More Tactical Intelligence Is Needed

Tactical intelligence is information about the identity, type, location, timing, and method of potential drug smuggling operations. Tactical intelligence allows the interdiction agencies to use their resources more effectively. Depending upon how reliable, timely, accurate, and specific the intelligence is, staff and equipment can be deployed in a way that increases the chances of a successful seizure. Information we obtained from Customs' computerized seizure reporting system demonstrates the value of obtaining intelligence before conducting interdiction operations. A relatively small percentage (16 percent) of fiscal year 1986 cocaine seizure cases was based on intelligence information, but approximately 29,000 pounds of cocaine were seized in these cases. Customs data indicates that this accounted for 53 percent of the total cocaine seized in fiscal year 1986.

Although Customs and the Coast Guard collect intelligence on narcotics trafficking, they do not have the responsibility to develop overseas tactical intelligence. This responsibility rests with DEA. However, gathering intelligence related to specific drug shipments is of secondary concern to DEA agents stationed in source countries. Recently, Customs and DEA began a trial program aimed at increasing the amount of tactical intelligence Customs receives from source countries. Under the program, Customs officers have been stationed at the DEA offices in Bogota, Columbia; Caracas, Venezuela; and Mexico City, Mexico and have access to the information DEA agents collect in the course of their work. Customs hopes that these officers will be able to obtain tactical interdiction intelligence that DEA agents may not have otherwise reported and that the Customs officers will disseminate the intelligence while it is still timely.

Customs and Coast Guard officials have stated that more tactical intelligence is needed to improve their agencies' ability to detect and intercept drug shipments. The National and International Drug Law Enforcement Strategy issued in January 1987 emphasizes the need to develop new sources and methods of intelligence collection relating to drug trafficking, including tactical intelligence.

Ports of Entry and Land Border Smuggling

We did not review federal interdiction efforts relating to drug smuggling through Customs ports of entry (where Customs inspectors are stationed to inspect cargo and persons entering the United States) and across the U.S. land borders between ports of entry. However, heroin and hashish mainly enter the United States through Customs ports of entry concealed in commercial cargo.

The Customs Service has exclusive authority for the interdiction of drugs at ports of entry and primary responsibility for intercepting drugs entering across the land border between ports of entry. The primary responsibility of the Immigration and Naturalization's Border Patrol is intercepting aliens illegally crossing the border. However. some Border Patrol officers are being given additional authority to search persons and vehicles for drugs. In fiscal 1987, budget authority for the Customs Service's drug interdiction efforts other than its air and marine programs was $276.5 million, and budget authority for INS' drug interdiction efforts was $800,000.

As noted in our recent report, Cargo Imports: Customs Needs to Better Assure Compliance With Trade Laws and Regulations (GAO/GGD-86-136, Sept. 1986), Customs' routine inspections at ports of entry are limited in scope and intensity. Customs has established two types of special teams to focus on detecting drugs concealed in cargo, in conveyances, and in the personal belongings of passengers and crew. Contraband enforcement teams rotate among inspection sites in a given locale and apply special inspection techniques to "high-risk" shipments, such as those originating or stopping in drug-producing countries. Freighter intelligence and surveillance teams recruit informants among freighter crew members to provide information about concealed drugs on board.

Operation Alliance Is Intended to Stem the Flow of Drugs Across the Southwest Border

According to the National Drug Policy Board, drug smuggling across the Mexican land border has increased substantially in recent years. The Policy Board has also stated that the federal government's efforts to interdict drugs smuggled across the southwest border have been inadequate. On August 14, 1986, the Vice President, as head of the National Narcotics Border Interdiction System, and the Attorney General, as the Chairman of the National Drug Enforcement Policy Board (now the National Drug Policy Board), announced the commencement of Operation Alliance on the southwest border to improve federal interdiction capabilities.

Operation Alliance is a multi-agency effort currently commanded by an official of the Immigration and Naturalization Service's Border Patrol. The federal agencies involved include the Customs Service, the Bureau of Alcohol, Tobacco and Firearms, the FBI, the DEA, the Border Patrol, U.S. Attorneys in judicial districts along the southwest border, U.S. Marshals, the Coast Guard, the FAA, the Internal Revenue Service, the Secret Service, and all branches of the military.

According to the National Drug Policy Board, which oversees Operation Alliance, when the project is fully implemented in 1988, 350 additional Customs inspectors and 60 new federal prosecutors will be assigned to the southwest border area, and 200 FBI, DEA, and Internal Revenue Service agents and other enforcement personnel will be reassigned to the area. In addition, specified Border Patrol officers are being given drug search and arrest authority between ports of entry, and some Customs agents have been authorized to conduct drug investigations in conjunction with DEA. The National Drug Policy Board reports that during the period October 15, 1986, to December 16, 1986, nearly 18,000 pounds of marijuana and about 1,200 pounds of cocaine were seized and 170 arrests made as a result of Operation Alliance.

Other Agencies Involved in Drug Interdiction Efforts

Customs and the Coast Guard receive assistance from [illegible] agencies as well as state and local law enforcement and [illegible] tion, two federal organizations provide policy guidance and [illegible] to drug interdiction agencies and efforts.

DEA has primary authority for drug investigations and drug [illegible] intelligence. Since 1982 the FBI has had concurrent jurisdiction with [illegible] for conducting these investigations. These investigations may produce information on pending drug smuggling attempts, which DEA is responsible for passing on to Customs or the Coast Guard. DEA agents assigned to the agency's offices in source countries are responsible for gathering interdiction-related intelligence. However, as previously stated, this is a secondary concern of these agents. DEA also operates the El Paso Intelligence Center, which is jointly staffed by several federal drug enforcement agencies, including Customs and the Coast Guard, and disseminates drug smuggling intelligence to interdiction agencies.

State and local law enforcement agencies, when asked, assist interdiction agencies in apprehending smugglers, participate in special operations, and exchange intelligence and investigative information. State and local agencies were principals in about 20 percent of the cocaine seizures and about 5 percent of the marijuana seizures in fiscal year 1986, according to Customs statistics. These were seizures in which Customs had some participation, and state and local agencies may have been involved in additional seizures.

Policy and Coordinating Agencies

The National Drug Enforcement Policy Board was created by the National Narcotics Act of 1984 and focused on the enforcement aspect of drug abuse control. The Board, which was recently expanded by an Executive Order, is now responsible for reviewing, evaluating, and developing and coordinating strategy and policy for all federal agencies with responsibilities in either the drug law enforcement or prevention and treatment fields. The new Board, now called the National Drug Policy Board, is chaired by the Attorney General and vice-chaired by the Secretary of Health and Human Services. Its membership includes the Directors of Central Intelligence and the Office of Management and Budget; the Secretaries of the Departments of Defense, State, Transportation, Treasury, Education, Agriculture, Energy, Labor, Interior, and Housing and Urban Development; the Director of the White House Drug Abuse Policy Office; the Vice President's Chief of Staff; and the Assistant to the President for National Security.

The National Narcotics Border Interdiction System, under the direction of the Vice-President, was created in March 1983 to coordinate support for interdiction operations. NNBIS is staffed with personnel detailed from participating agencies, which include the Coast Guard, Customs, DEA, FBI, INS, the military services, and state and local law enforcement agencies. NNBIS does not have direct operating authority but functions as an intermediary between the interdiction and military agencies in arranging military support and as a conduit to the interdiction agencies for drug intelligence developed by intelligence agencies. NNBIS also has assisted interdiction agencies in planning and coordinating "special operations" that temporarily bring together resources of several agencies to concentrate on a particular smuggling threat. In addition to its Washington headquarters staff, NNBIS has regional centers in El Paso, Chicago, New York, Miami, New Orleans, Long Beach, and Honolulu.

Drug Seizures Are Small Compared to Total Drug Imports

The drug interdiction efforts of the Customs Service, the Coast Guard, and supporting agencies have resulted in the seizure of substantial amounts of drugs in recent years, but these seizures are relatively small compared to the amounts of drugs estimated to be smuggled into the United States. Table 3.8 compares the estimated amounts of cocaine, marijuana, heroin, and hashish smuggled into the United States in calendar years 1985 and 1986 with the amounts seized by interdiction agencies in FY 1985 and FY 1986. We recognize the statistics in table 3.8 are for slightly different time periods, but we believe that the comparison reflects the disparity between the amounts smuggled and drugs seized. The amounts shown include drugs seized directly by Customs and the Coast Guard, as well as seizures by state, local, and other federal agencies in which Customs participated. Customs records Coast Guard seizures because the Coast Guard turns its seized drugs over to Customs.

Table 3.8: Estimated Amounts of Drugs Smuggled Into the U.S. Compared to Amounts Seized 1985 - 1986

In Tons

	Estimated amounts smuggled into the U.S.		Amounts seized	
	CY 1985	CY 1986	FY 1985	FY 1986
Cocaine	65[a]	138	25	27
Marijuana	15,300	11,000	1,206	1,106
Heroin	5	7	[b]	[b]
Hashish	150	165	12	9

[a] Customs has acknowledged that it underestimated the amount of cocaine smuggled into the United States in 1985.

[b] Less than 0.5 tons.

Source: U.S. Customs Service.

Customs is the primary seizing agency for cocaine and the Coast Guard the primary seizing agency for marijuana. We estimated the percentages of illegal drugs seized by interdiction agencies in fiscal year 1986, using seizure data compiled by Customs' computerized law enforcement activity reporting system. Our estimates are shown in table 3.9.

Table 3.9: Proportions of Illegal Drugs Seized, by Interdiction Agency FY 1986

Type of drug	Agency	Percent of drugs seized
Cocaine	Customs	66
	Coast Guard	3
	DEA	11
	State & local	19
	Other	[a]
	Total	**100[b]**
Marijuana	Customs	26
	Coast Guard	65
	State & local	5
	Other	3
	Total	**100[b]**
Heroin	Customs	94
	State & local	2
	Other	4
	Total	**100**
Hashish	Customs	99
	State & local	[a]
	Other	[a]
	Total	**100[b]**

[a] Less than 1 percent.

[b] Percentages do not add to 100 percent due to rounding.

Source: Our estimates are based on data from Customs Law Enforcement Activity Reporting System.

According to Customs data, the bulk of cocaine and marijuana seizures occur in the south Florida area and the Caribbean. As shown in table 3.10, 70 percent of the cocaine and 79 percent of the marijuana seized in fiscal year 1986 was seized in Customs' Southeast Region. This region encompasses the south Florida area, as well as the Coast Guard's Seventh District.

Table 3.10: Cocaine and Marijuana Seizures FY 1986

Amount seized in tons

	Southeast		Rest of U.S.	
	Amount Seized	Percent of Total Seized	Amount Seized	Percent of Total Seized
Cocaine	19	70	8	30
Marijuana	870	79	236	21

Source: Customs Law Enforcement Activity Reporting System

Conclusions

Relatively small proportions of the cocaine, marijuana, and other illegal drugs smuggled into the United States are seized by drug interdiction agencies. Drug interdiction efforts may have prevented greater influxes of illicit drugs by increasing the smugglers' risks of apprehension. However, cocaine, marijuana, and other illegal drugs remain widely available.

There are several reasons for the federal government's inability to stop illegal drug smuggling. The amounts of equipment and numbers of staff devoted to interdiction leave large gaps in the interdiction system's coverage of the lengthy southern coastal and land borders of the United States. As a result, the system is unable to detect or respond to all illegal border crossings 24 hours a day. Smugglers use methods and tactics that exploit gaps in the interdiction system's coverage of the border and other weaknesses in the interdiction system, such as inadequate security over interdiction plans and operations. Interdiction agencies also are hindered by the lack of timely and accurate tactical intelligence: information about the identity, type, location, timing, and method of potential smuggling operations. Finally, the demand for illegal drugs makes smuggling highly profitable, which would encourage smugglers to continue their activities.

The increased resources for drug interdiction authorized by the Anti-Drug Abuse Act of 1986 should fill some gaps in the present interdiction system with additional staff and more equipment. However, smugglers have responded successfully to changes in the interdiction system in the past and may continue to do so.

(264140)

GAO

United States
General Accounting Office
Washington, D.C. 20548

General Government Division

January 21, 1988

The Honorable Glenn English
Chairman, Subcommittee on Government
  Information, Justice, and Agriculture
Committee on Government Operations
House of Representatives

Dear Mr. Chairman:

This letter is in response to your office's December 18, 1987, request for information on the quantity and number of cocaine seizures made along the U.S.-Mexico border. We gathered this information as part of the review your Subcommittee requested on Operation Alliance--a multiagency effort to reduce the flow of drugs smuggled across the southwestern U.S. border. As you know, in the near future we will be issuing a report that will include data on the quantity and number of marijuana, heroin, and cocaine seizures made along the southwestern border.

In the course of our work, we obtained information on the quantities of illegal drugs seized and the number of drug seizures along the southwestern U.S. border for the 12 months preceding and following the initiation of Operation Alliance in July 1986. We obtained this information from the Drug Enforcement Administration's El Paso Intelligence Center (EPIC). EPIC officials provided data as of September 1987, on land, air, and maritime seizures of illegal drugs for the period July 1, 1985, through June 30, 1987. A summary of the cocaine seizure statistics that we obtained is presented below.

July 1985 - June 1986		July 1986 - June 1987		Percent Change 1985/86 - 1986/87	
Quantity seized (kilograms[a])	No. of seizures	Quantity seized (kilograms)	No. of seizures	Quantity seized	No. of seizures
2,256	246	7,685	120	+241	-51

[a] One kilogram equals approximately 2.2 pounds.

Land seizure statistics include seizures made on land within 150 miles of the Mexican border. Seizures made in the Los Angeles metropolitan area are not included unless specifically reported as having been transported over the Mexican border. Air seizure statistics include all seizures made within the states of California, Arizona, New Mexico, and Texas involving drugs known to have been transported by aircraft. Maritime statistics include all seizures made in the Pacific Ocean or Gulf of Mexico and believed to have passed through Mexico and been destined for the Texas or southern California coasts.

We verified EPIC's data on air and maritime cocaine seizures by tracing the data to the source documents that EPIC officials used to prepare the data. We did not verify EPIC's data on land cocaine seizures because EPIC no longer had the original source documents for the land seizure information. EPIC officials told us that they could reconstruct the original source documents but that this would require additional staff time. Because of the cost involved, and the fact that we found no significant errors in the air and maritime data that we verified, we accepted the land seizure data EPIC provided us without further tracing and verifying.

We discussed the results of our analysis with senior EPIC officials, including the special agent-in-charge. These officials agreed with the accuracy of the information presented.

We hope that this information will be of assistance to you. Should you require additional information, please call me at (202) 275-8389.

Sincerely yours,

Arnold P. Jones

Arnold P. Jones
Senior Associate Director

United States General Accounting Office

GAO

Report to the Chairman, Committee on
the Judiciary, U.S. Senate

February 1988

NATIONAL DRUG POLICY BOARD

Leadership Evolving, Greater Role in Developing Budgets Possible

GAO United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-229364

February 12, 1988

The Honorable Joseph R. Biden
Chairman, Committee on the Judiciary
United States Senate

Dear Mr. Chairman:

This report responds to your request that we review the activities of the National Drug Policy Board (formerly the National Drug Enforcement Policy Board) to determine if it has fulfilled its responsibilities under the Comprehensive Crime Control Act of 1984 to facilitate coordination of federal drug law enforcement operations and policy. We testified before your Committee on May 14, 1987, on the need for strong central oversight of the federal government's "war on drugs" and the role of the Policy Board in providing such central oversight.

As arranged with your office, unless you publicly release its contents earlier, we plan no further distribution until 30 days after the date of this report. At that time, we will send copies to the Attorney General, who chairs the Policy Board, and other interested parties.

Sincerely yours,

Arnold P. Jones
Senior Associate Director

Executive Summary

Purpose

The Comprehensive Crime Control Act of 1984 established the National Drug Enforcement Policy Board to facilitate the coordination of federal drug law enforcement efforts. At the request of the Chairman of the Senate Judiciary Committee, GAO reviewed the activities of the Policy Board to determine if it has fulfilled its responsibilities under the act.

Background

Drug abuse is a serious national problem. Federal efforts to combat drug abuse in the United States involve a dual strategy of (1) reducing the supply of illicit drugs through drug law enforcement and (2) reducing the demand for these drugs through prevention and treatment efforts.

Thirty-two federal agencies are involved to some degree in federal drug control efforts. The total federal drug abuse control budget for fiscal year 1987 was about $3.93 billion, a 73 percent increase over funding in fiscal year 1986 (about $2.27 billion). Funding for drug law enforcement rose from $1.88 billion in fiscal year 1986 to $2.97 billion in fiscal year 1987, a 58 percent rise. The respective balances were directed to drug abuse prevention and treatment.

The Comprehensive Crime Control Act of 1984 created the National Drug Enforcement Policy Board to facilitate coordination among the federal agencies involved in drug law enforcement. In March 1987, President Reagan issued Executive Order 12590 expanding the responsibilities of the Policy Board to include oversight of federal drug prevention and treatment efforts and changing the name of the Policy Board to the National Drug Policy Board. This report covers only the drug law enforcement activities of the Policy Board.

When Congress created the Policy Board it specified that the Policy Board has the responsibility for and authority to (1) review, evaluate, and develop policy and strategy, including the development of budgetary priorities; (2) facilitate coordination of federal efforts to halt national and international trafficking in illegal drugs; and (3) coordinate the collection and evaluation of information necessary to implement U. S. policy with respect to illegal drug law enforcement.

Results in Brief

The Policy Board brings together drug law enforcement officials at several levels—cabinet members, agency heads, and program managers—enabling them to discuss, plan, and coordinate operations and programs and provides a forum to discuss and resolve interagency disputes. GAO believes that the Policy Board's efforts to facilitate coordination have been worthwhile and responsive to the requirements of the law establishing the Policy Board.

The Policy Board has developed policy to the extent that it has issued two policy directives and made policy decisions to facilitate special drug enforcement operations. It also has issued the National and International Drug Law Enforcement Strategy, which is an amalgamation of existing strategies employed by drug law enforcement agencies.

The Policy Board has been hindered in developing budgetary priorities because of the lack of information on resources devoted to drug control programs and the results of these programs. A consolidated drug control budget including breakdowns of expenditures for each component of the Strategy has been developed and implementation plans for each component including measurable objectives have been prepared for the Policy Board.

This information could be the basis for developing the necessary budgetary priorities. Whether the Policy Board uses the information for the purpose of developing budgetary priorities remains to be seen.

GAO's Analysis

Efforts to Provide Coordination

The Policy Board cites many achievements in facilitating coordination among agencies involved in drug law enforcement. GAO's analysis of selected accomplishments showed that the Policy Board has helped ensure coordination among the federal agencies. The Policy Board helped formulate Operation Alliance—a multiagency effort designed to control the flow of drugs, firearms, and illegal aliens across the southwest border. It also made decisions to improve air interdiction capabilities in the Southeast United States and to implement Operation Blast Furnace, which was a multiagency effort aimed at helping the Bolivian government destroy cocaine laboratories. In addition, the Policy Board ensured the establishment of a mechanism for collecting information on drug seizures and resolved conflicts among involved agencies on how the data should be accumulated. (See pp. 15 to 19 for these and other examples of the Policy Board's coordination activities.)

Development of Anti-Drug Policy and Strategy

The Policy Board has issued two policy directives. One of the policy directives relates to managing international crises precipitated by illegal drug trafficking, and the other relates to designating agencies for each aspect of federal drug law enforcement efforts. This latter directive was issued to comply with a provision of the National Defense Authorization Act for fiscal year 1987. Other policy decisions were made to facilitate specific initiatives such as providing Border Patrol officers involved in Operation Alliance with expanded search and arrest authority. (See pp. 20 to 22.)

In January 1987, the Policy Board issued an anti-drug strategy publication entitled the National and International Drug Law Enforcement Strategy. Developed by those agencies with legislative mandates for performing specific aspects of drug law enforcement, this work is an amalgamation of existing strategies employed by drug law enforcement agencies. It identifies five major components of the anti-drug program—intelligence, international drug control, interdiction and border control, investigation and prosecution, and controlling the diversion of legally produced drugs. It describes the general nature and objectives of federal drug law enforcement activities relating to each component. The Strategy does not contain operational guidance setting forth specific action to be taken by drug law enforcement agencies. However, implementation plans containing goals and specific actions needed to achieve those goals have been developed for each component of the Strategy. As of November 20, 1987, the Policy Board had not yet approved the plans. (See pp. 22 to 25.)

GAO believes that the Policy Board's actions in setting drug law enforcement policy and strategy are consistent with its charge in the Comprehensive Crime Control Act of 1984. (See p. 28.)

Budgetary Priorities Have Not Been Developed

Under the Comprehensive Crime Control Act of 1984, the Policy Board has the responsibility for and the authority to develop budgetary priorities among the various federal drug law enforcement programs. The act also states that the Chairman, on behalf of the Board. is authorized to review and approve the reprogramming of funds to reflect budgetary priorities. At the first Board meeting in April 1985, the Chairman defined the Policy Board's role in the budget process as one of reviewing and determining where reallocations should be made. The Policy Board has contributed to providing a better understanding of federal expenditures for the various components of the federal strategy, but has not developed budgetary priorities. The implementation plans being developed with regard to the National and International Drug Law Enforcement Strategy could be the basis for the Policy Board to develop budgetary priorities. (See pp. 25 to 27.)

Agency Comments

As requested by the Chairman's office, GAO did not obtain official comments from the Policy Board on a draft of this report. However, GAO discussed the information it contains with a Policy Board official who generally agreed with the facts as presented. The official said that the Board would have to approve the implementation plans before making a decision as to whether to use them to set budgetary priorities.

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Abbreviations

DEA	Drug Enforcement Administration
FBI	Federal Bureau of Investigation
INS	Immigration and Naturalization Service
IRS	Internal Revenue Service
NNBIS	National Narcotics Border Interdiction System
OMB	Office of Management and Budget

Introduction

The Comprehensive Crime Control Act of 1984 established the National Drug Enforcement Policy Board to facilitate the coordination of federal drug law enforcement efforts. At the request of the Chairman of the Senate Judiciary Committee, we reviewed the role and activities of the Policy Board in carrying out its responsibilities under the act.

In March 1987, while our review work was underway, President Reagan issued Executive Order 12590, which expanded the responsibilities of the Policy Board to include oversight of federal drug prevention and treatment efforts. The order also changed the name of the National Drug Enforcement Policy Board to the National Drug Policy Board. Despite these changes, we concentrated on the drug law enforcement activities provided for in the Comprehensive Crime Control Act as originally requested by the Chairman and as agreed with the Chairman's office. Thus we excluded the Policy Board's new responsibilities and activities relating to drug prevention and treatment efforts. Throughout this report, however, we refer to both the National Drug Enforcement Policy Board and the National Drug Policy Board as the Policy Board.

Many Agencies Are Involved in Federal Drug Control Efforts

Drug abuse is an ongoing concern in the United States and the federal government has been working to reduce the availability and use of illegal drugs. The majority of federal drug control resources have been targeted toward drug law enforcement rather than drug abuse prevention and treatment. The total federal drug abuse control budget for fiscal year 1987 was about $3.93 billion, a 73 percent increase over funding in fiscal year 1986 (about $2.27 billion). Funding for drug law enforcement rose from about $1.88 billion in fiscal year 1986 to $2.97 billion in fiscal year 1987, a 58 percent rise. The respective balances were directed to drug abuse prevention and treatment.

Thirty-two federal departments and agencies are involved to some degree in federal drug control efforts. As described in the National and International Drug Law Enforcement Strategy issued by the Policy Board in January 1987, the two basic elements of these federal efforts are (1) drug supply reduction and (2) drug demand reduction. The Strategy delineates supply reduction into five functional components: investigations and prosecution, international programs, intelligence, interdiction, and controlling the diversion of legally produced drugs. Demand reduction efforts include education, prevention, treatment, detoxification, and research.

The activities of the agencies involved in carrying out the federal drug control program share a common goal of reducing drug abuse in the United States, thus making oversight and coordination of their efforts imperative. Although a single agency or department often has primary responsibility for each of the elements of the federal effort, other agencies assist these primary agencies. The following provides general information on the primary and support agencies for those elements where there is multiagency involvement in drug law enforcement:

- Investigations - The Department of Justice's Drug Enforcement Administration (DEA) is the primary agency for drug investigations and specializes in investigations of major drug traffickers. The Federal Bureau of Investigation (FBI) has concurrent jurisdiction but emphasizes investigations of organized crime's role in drug trafficking. The Department of the Treasury's Customs Service performs investigations of drug smuggling activities, and the Internal Revenue Service (IRS) and Customs are involved in drug money laundering investigations.
- International Programs - The Department of State coordinates all drug control efforts overseas and has primary responsibility for enlisting drug producing countries' support for crop eradication and drug interdiction programs. DEA agents stationed overseas assist foreign drug law enforcement officials in investigations and collect international drug data. Customs and IRS station personnel in many foreign countries, including drug source countries.
- Intelligence - DEA is the primary drug intelligence gathering agency, collecting intelligence on drug trafficking organizations and patterns both domestically and overseas. The national intelligence community provides information to drug law enforcement agencies on foreign drug production and trafficking. Customs and the Department of Transportation's Coast Guard have intelligence programs which include some intelligence gathering, but they depend heavily on intelligence information from DEA and the national intelligence community.
- Interdiction - Drug interdiction is primarily the responsibility of Customs and the Coast Guard. Customs has responsibility for interdicting drugs smuggled in cargo or by passengers through U.S. ports of entry and across the U.S. border between the ports. The Coast Guard shares marine interdiction responsibilities with Customs within 12 miles of the U.S. coastline and is the primary interdiction agency on the high seas. The Department of Justice's Immigration and Naturalization Service (INS) assists Customs in interdicting drugs between ports of entry. The Department of Defense supports the interdiction efforts of these agencies by loaning equipment and providing surveillance information.

GAO has long recognized the need for strong central oversight of federal anti-drug efforts. In our 1979 report, Gains Made in Controlling Illegal Drugs, Yet the Drug Trade Flourishes (GAO/GGD-80-4, Oct. 25, 1979) and in our 1983 report, Federal Drug Interdiction Efforts Need Strong Central Oversight (GAO/GGD-83-52, June 13, 1983), we identified drug law enforcement problems resulting from fragmented drug supply reduction activities and pointed to the need for centralized direction and greater coordination of all federal drug supply reduction activities.

Congress Established the Policy Board to Coordinate Drug Supply Reduction Efforts

Since the 1960s, Congress and the executive branch have endeavored to alleviate the fragmentation of federal efforts to reduce the supply of illegal drugs in the United States. These efforts include realignments of federal agency responsibilities, such as occurred in 1973, with President Nixon's Reorganization Plan No. 2 which created DEA and designated it the lead agency for drug law enforcement.

Two other initiatives provided for centralized direction of drug control efforts in the Executive Office of the President. In 1972, President Nixon established in the Executive Office of the President the Special Action Office for Drug Abuse. The Drug Abuse Office and Treatment Act of 1972 later gave the Office a statutory base for 3 years. In 1976 Congress amended the 1972 act to create the Office of Drug Abuse Policy, also in the Executive Office of the President. President Ford, however, did not establish the office. In 1977, President Carter reorganized the Executive Office of the President, and placed the functions of the Office of Drug Abuse Policy within a unit of the Domestic Policy Staff. In 1982, President Reagan designated this unit the Drug Abuse Policy Office.

In 1982, legislation passed Congress and was sent to the President for signature establishing a single agency with authority to direct national and international drug enforcement efforts. The President vetoed the legislation saying that this bill would create another layer of bureaucracy within the executive branch that "would produce friction, disrupt effective law enforcement, and could threaten the integrity of criminal investigations and prosecutions." He also said the aim of the proposed legislation of promoting coordination was being achieved by the existing administrative system.

In 1983, Congress began consideration of new legislation to assign authority to a single official who would provide unified direction of federal efforts to curb illegal drug trafficking. An amendment to the proposed legislation substituted a policy-making board in place of a single official. This amendment was included in the Comprehensive Crime Control Act of 1984, which was signed into law on October 12, 1984.

The act stated that the overall responsibility of the Policy Board was to facilitate coordination of U.S. operations and policy with regard to illegal drug law enforcement. The act says that:

> "in the furtherance of that responsibility, the Board shall have the responsibility, and is authorized to (1) review, evaluate and develop United States Government policy, strategy and resources with respect to illegal drug law enforcement efforts, including budgetary priorities and a National and International Drug Law Enforcement Strategy, (2) facilitate coordination of all United States Government efforts to halt national and international trafficking in illegal drugs, and (3) coordinate the collection and evaluation of information necessary to implement United States policy with respect to illegal drug law enforcement."

The act designated the Attorney General as Chairman of the Board. Board members, as specified in the act, included the Secretaries of State, the Treasury, Transportation, Defense, Health and Human Services; and the Directors of the Office of Management and Budget (OMB) and the Central Intelligence Agency.

As previously mentioned, in March 1987, the President signed Executive Order 12590, which created the National Drug Policy Board. The order assigned the new Board all of the responsibilities of the National Drug Enforcement Policy Board, as well as responsibility for policy and resource coordination for drug prevention, education, treatment, and research programs.

The new Policy Board includes the original Board members and adds the Secretaries of the Interior, Agriculture, Labor, Housing and Urban Development, Energy, and Education; the Assistant to the President for National Security Affairs; the Chief of Staff to the Vice President; the Director of the White House Drug Abuse Policy Office; and other such members as the President may designate. The Attorney General continues as Chairman of the Policy Board and the Director of Health and Human Services is designated the Vice Chairman.

The Policy Board is organized into three levels: (1) the cabinet level Board; (2) two subcabinet level coordinating groups of assistant secretaries, commissioners, etc. (one coordinating group is concerned with drug law enforcement and the other coordinating group is concerned with drug prevention and treatment); and (3) the Policy Board staff made up of personnel detailed from agencies involved in drug abuse control efforts. While all members of the Board, coordinating groups, and staff share the common goal of reducing drug abuse in the United States, they represent their parent agencies, which have different and sometimes conflicting goals and priorities.

The Board and the coordinating groups meet approximately once a month for about an hour. Issues concerning drug policy, strategy, and programs are usually first considered by the cognizant coordinating group, which attempts to reach consensus among the membership on resolution. Those issues that cannot be resolved at the coordinating group level are referred to the Board, along with various options for its consideration. The Board then attempts to reach consensus on one of the options. The coordinating groups also coordinate the implementation of Policy Board initiatives, and both the Board and coordinating groups are briefed on the status of such initiatives by the Policy Board staff or agency officials.

Policy Board officials and publications state that much of the Policy Board's work takes place behind the scenes, and that the Board frequently provides low-key advice and consultation to agencies involved in drug law enforcement.

Objectives, Scope, and Methodology

Our review of the Policy Board's activities was conducted at the request of the Chairman of the Senate Judiciary Committee. As requested, this report outlines the Policy Board's responsibilities pursuant to the Comprehensive Crime Control Act of 1984 and provides an overview of its efforts to fulfill those responsibilities.

In examining the Policy Board's efforts in fulfilling its responsibilities under the act, we looked at the Policy Board's role in several recent federal drug law enforcement initiatives, including:

- Federal Drug Resource Allocation - an effort to bring greater consistency to reporting of drug control spending;

- The National and International Drug Law Enforcement Strategy - developed by the Policy Board as required by the Comprehensive Crime Control Act of 1984 and issued in January 1987;
- Operation Alliance - a multiagency operation aimed at halting the flow of drugs, firearms, and other contraband across the United States/Mexico border;
- Operation Blast Furnace - an operation aimed at helping the Bolivian government destroy cocaine laboratories;
- Southeast Border Air Interdiction Initiative - a study in late 1986 that examined air and marine interdiction capabilites along the southeast border and developed recommendations for improving the effectiveness of those capabilities;
- Federal-Wide Drug Seizure System - a system implemented in October 1986 for compiling information on federal drug seizures that eliminates the problem of double counting by seizing agencies; and
- Drug Crisis Management System - a system created in early 1986 to establish unified interagency approaches to international drug-related problems.

To address the Policy Board's role in these efforts, we reviewed the minutes of Board and Coordinating Group meetings to determine what issues were discussed, how agreements were reached, and how policy decisions were made. We interviewed officials whose agencies belong to the drug law enforcement coordination group and/or Board and were involved in the activities listed above to obtain information on how the Policy Board was involved in each issue. We also obtained their general opinions and perceptions of the Policy Board including its contributions and detriments to the drug law enforcement mission. We did not attempt to determine whether or not specific activities would have taken place if the Policy Board had not been in existence.

In performing the review, we also relied on our past work, which resulted in reports entitled Gains Made in Controlling Illegal Drugs, Yet the Drug Trade Flourishes (GAO/GGD-80-4, Oct. 25, 1979); Federal Drug Interdiction Efforts Need Strong Central Oversight (GAO/GGD-83-52, June 13, 1983); Reported Federal Drug Abuse Expenditures-Fiscal Years 1981 to 1985 (GAO/GGD-85-61, June 3, 1985); Coordination of Federal Drug Interdiction Efforts (GAO/GGD-85-67, July 15, 1985); and DRUG SMUGGLING: Large Amounts of Illegal Drugs Not Seized by Federal Authorities (GAO/GGD-87-91, June 12, 1987).

This review was conducted from January to November 1987 in accordance with generally accepted government auditing standards. As requested by the office of the Senate Judiciary Committee, we did not obtain official comments from the Policy Board on this report. However, we discussed the information it contains with the Assistant to the Chairman of the Policy Board who generally agreed with the facts presented. Our discussion included the subject of the Policy Board developing budgetary priorities for federal drug law enforcement efforts and the Assistant to the Chairman said the Board must approve certain recently submitted plans before deciding whether it could use information from the plans to develop budgetary priorities. (See pp. 25 to 28.)

Chapter 2

Drug Law Enforcement Coordination Has Been Facilitated by the Policy Board

The Comprehensive Crime Control Act of 1984 states that the Policy Board shall facilitate coordination of U.S. operations and policy on illegal drug law enforcement. Specifically, the Policy Board is authorized to "facilitate coordination of United States Government efforts to halt national and international trafficking in illegal drugs; and coordinate the collection and evaluation of information necessary to implement United States policy with respect to illegal drug law enforcement." As a corollary to its role as coordinator, the Policy Board also acts as a forum for conflict resolution among agencies.

In prepared testimonies and reports to Congress, the Policy Board regularly cites numerous accomplishments relating to its role in facilitating coordination among agencies involved in drug law enforcement. We reviewed several of the accomplishments the Policy Board cited and found that the Board has facilitated coordination among federal drug enforcement agencies.

The Policy Board Coordinated the Development of Operation Alliance

The Policy Board played a major role in coordinating the establishment of Operation Alliance, a multiagency effort designed to bolster U.S. interdiction of illicit drugs, firearms, and illegal aliens crossing the United States/Mexico border. Agencies involved in Operation Alliance include Customs; the Bureau of Alcohol, Tobacco and Firearms; the Secret Service; IRS; FBI; INS; DEA; U.S. Attorneys in judicial districts along the southwest border; U.S. Marshals; the Coast Guard; the Federal Aviation Administration; all branches of the military; and state and local law enforcement organizations.

The first evidence of the Policy Board's involvement in what would become Operation Alliance was at a March 1986 Coordinating Group meeting where the group discussed the growing drug threat in the Southwest United States. About the same time (April 1986), six Senators from states bordering Mexico wrote to the President requesting that he establish a multiagency task force along the Mexican border to address the growing drug trafficking threat. At the April 17, 1986, meeting of the Coordinating Group, a subcommittee chaired by the Assistant Secretary of the Treasury for Enforcement was established to study the problem on the southwest border and to formulate a federal response. In July 1986, the subcommittee reported to the coordinating group on its plan for dealing with the problem, which included transferring personnel and equipment to the border area, expanding investigative authority for Customs officers, and providing greater interdiction authority for INS Border Patrol officers working along the southwest border.

On August 14, 1986, the Vice President, as head of National Narcotics Border Interdiction System (NNBIS)[1] and the Chairman of the Policy Board jointly announced the commencement of Operation Alliance. According to the announcement, when the operation is fully implemented in 1988, 350 additional Customs inspectors; 60 new federal prosecutors; 200 additional FBI, DEA, and IRS special agents; and other law enforcement personnel will be assigned to the southwest border.

The Policy Board's Role in Operation Blast Furnace

The Policy Board's coordinating role in Operation Blast Furnace, which was primarily aimed at destroying cocaine laboratories in Bolivia, was listed by the Board as a significant activity in its 1986 progress report provided to Congress. Operation Blast Furnace was initiated at the request of the Bolivian government in order to combat the burgeoning cocaine trafficking problem in the country. The Departments of Defense, State, and Justice all agreed that the severity of the drug threat warranted U.S. assistance to the Bolivian government to reduce cocaine production there. The Departments of State and Defense and DEA planned the U.S. assistance effort which would consist of logistical and technical support to the Bolivian government in destroying cocaine laboratories. In implementing Operation Blast Furnace, the U.S. Army supplied helicopters and crews to transport Bolivian strike teams to raids of cocaine labs while DEA special agents served as advisors to the Bolivians.

Operation Blast Furnace required extensive coordination among several agencies, all of which are represented on the Policy Board or Coordinating Group. According to agency officials involved in the operation, the effort was planned at ad hoc interagency meetings outside the auspices of the Policy Board. The Policy Board, however, approved of the actions taken and received briefings before and after implementation.

The Policy Board Sought Improved Air Interdiction Capabilities in the Southeast

The Policy Board's efforts to improve air interdiction capabilities along the southeast border of the United States is described by the Board in statements to Congress and the public as one of its significant activities. The project was initiated in August 1986 by the Chairman of the Policy Board and was designed to complement Operation Alliance which was being initiated at the time along the southwest border.

In implementing the Board's directions, the Policy Board staff performed a survey of air interdiction capabilities in the southeast and identified several matters needing the Policy Board's decisions. In November 1986, the Board decided to

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[1] NNBIS was created in March 1983 to coordinate support for drug interdiction operations.

- assign the highest priority to obtaining a secure communications capability for drug interdiction agencies,
- establish a working group to oversee the procurement of secure communications hardware,
- improve existing air interdiction resources such as retrofitting Coast Guard aircraft with night vision equipment and target acquisition radar,
- direct the Navy to loan E2C surveillance aircraft to law enforcement agencies, and
- increase military surveillance of drug smuggling routes.

Several other matters were raised by the Board's staff that needed the Policy Board's decisions, which were made in December 1986, after discussions among members of the Coordinating Group. The decisions involved

- assigning the Coast Guard primary responsibility for detecting airborne drug smugglers,
- assigning both the Coast Guard and Customs responsibility for intercepting and tracking suspect aircraft,
- assigning Customs primary responsibility for apprehension of smugglers, and
- establishing a study group to provide recommendations on the best option for long-range surveillance aircraft.

These decisions were eventually codified in a May 22, 1987, Policy Board directive.

Some of the Board's decisions were outcomes of congressional mandates included in the Anti-Drug Abuse Act of 1986. In general terms, the act significantly increased the funding for drug interdiction efforts and directed certain actions. For example, the act directed the Navy to provide four E2C surveillance aircraft for drug interdiction purposes—two for Customs and two for the Coast Guard.

The Policy Board's Efforts to Coordinate the Collection of Information on Drug Law Enforcement

Another accomplishment that the Policy Board has listed in its reports to Congress and the public relates to its coordination of the collection of information on drug law enforcement. We reviewed the Policy Board's role in developing a data base that is intended to eliminate double counting of federal drug seizures.

Double counting of drug seizures has been a persistent problem in the federal government. In 1983, we reported that statistics on drugs seizures were overstated because of double and triple counting.[2]

To eliminate the persistent problem of duplicate counting of drug seizures by federal agencies, an interagency committee to study the problem, whose membership included representatives of DEA, Customs, the Coast Guard, FBI, and INS, was formed in early April 1984 (before the Policy Board was established). In May 1985, the Committee presented four alternative systems to the Coordinating Group that differed in the types of information they would contain on particular seizures. At a June 1985 Coordinating Group meeting the committee recommended one of the systems and the Coordinating Group adopted the recommendation. The following August the Policy Board approved the Coordinating Group's action on the system which became the Federal-Wide Drug Seizure Statistics System.

After the system was approved by the Coordinating Group, a disagreement arose between DEA and Customs over agency attribution for seizures. Customs did not agree to the exclusion of the seizing agency as an element in the data base and the exclusion of small seizures in the system. In order to get the system initiated, the Coordinating Group Chairman asked Customs and DEA to resolve their disagreement. The agencies compromised by agreeing that whenever statistics from the system (without attribution) are accumulated and released, the characteristics of the data, such as the exclusion of small seizures, are clearly stated. As of December 1987 the system had been implemented but was not yet producing data due to a problem with one of the agency data bases that feeds the system.

Conclusion

The Policy Board brings together drug law enforcement officials at several levels—cabinet members, agency heads, and program managers—enabling them to discuss, plan, and coordinate operations and programs.

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[2] Federal Drug Interdiction Efforts Need Strong Central Oversight (GAO/GGD-83-52, June 13, 1983).

The Policy Board also provides a forum for drug law enforcement officials to discuss and resolve interagency disputes. We believe that the Policy Board's efforts to facilitate coordination have been worthwhile and responsive to the requirements of the law establishing the Policy Board.

Chapter 3

Policy Board's Participation in Developing Anti-Drug Policy, Strategy, and Budgetary Priorities

The Policy Board has the authority under the Comprehensive Crime Control Act of 1984 to "review, evaluate and develop United States Government policy, strategy and resources with respect to illegal drug law enforcement efforts, including budgetary priorities. . . ." In carrying out this authority, the Policy Board has issued two policy directives relating to the management of international crises precipitated by illegal drug trafficking and the designation of lead agencies for each aspect of federal drug control efforts. The Board has made other policy decisions to facilitate specific initiatives such as providing Border Patrol officers involved in Operation Alliance with expanded search and arrest authority. With respect to drug law enforcement strategy, the Policy Board issued the National and International Drug Law Enforcement Strategy in January 1987, which is an amalgamation of existing strategies employed by drug law enforcement agencies.

The Policy Board, however, has not exercised its authority under the act to develop budgetary priorities because it has lacked the information necessary to determine which drug law enforcement initiatives merit priority. This is the same problem we identified in our 1983 report when we recommended that the President make a clear delegation of responsibility to one individual to oversee federal drug law enforcement programs. We recommended that such responsibilities include developing "a unified budget that will present a composite picture of all Federal resources being devoted to the drug war and present recommendations for rationalizing these efforts in terms of budgetary priorities."

The Policy Board was established in 1984 and has laid the foundation for such a unified budget by directing the development of a detailed profile of federal drug control expenditures. In addition, committees established by the coordinating groups in the summer of 1987 have developed an implementation plan for each of the components of the Strategy and have set measurable objectives to be achieved. These profiles of drug control expenditures and plans could serve as the basis for evaluating the effectiveness of the individual components and could be used by the Board to set budgetary priorities. As of November 20, 1987, the Board had not approved the plans; therefore, there is no way of telling whether the Board will use the information to establish budgetary priorities.

Policy Initiatives of the Policy Board

The policy initiatives of the Policy Board fall into two categories—(1) directives for setting future courses of action and (2) decisions made to facilitate drug law enforcement initiatives. The Policy Board issued drug smuggling operations that cross the Mexican border. The Coordinating Group also worked out a memorandum of understanding between Customs and INS to give INS Border Patrol officers stationed along the United States/Mexican border Customs drug search and arrest authority.

Another illustration of a policy decision made by the Policy Board relates to efforts to eradicate cannabis.[2] In August 1986, the Policy Board issued an Analysis of the Domestic Cannabis Problem and the Federal Response which was prepared by the Policy Board staff. This report contains 20 recommendations for strenthening efforts to eradicate domestically produced marijuana and other cannabis derivatives. Several of these recommendations, which were adopted by the Policy Board, would clarify existing policy. For example, the report recommends that the eradication of ditchweed (a form of cannabis with a low potency which generally grows wild) should be done entirely by state and local agencies at their expense, and that the federal government should concentrate its resources on eradicating more potent forms of cannabis.

Policy Board Has Provided a Federal Drug Enforcement Strategy

In January 1987, the Policy Board issued its drug law enforcement strategy in a document entitled National and International Drug Law Enforcement Strategy. Each section of the Strategy was developed by the federal agencies having responsibility for the activities described and presents the objectives and nature of ongoing agency efforts.

The Intent of the National and International Strategy

The Comprehensive Crime Control Act of 1984 placed the responsibility on, and provides the authority for, the Policy Board to develop a federal strategy for federal drug law enforcement efforts. In the National and International Drug Law Enforcement Strategy, the Policy Board states that the intent of the Strategy is to

- endorse, adopt, and pursue the vision of a drug-free society and focus on intermediate national goals of a measurable and sustained decline in drug abuse of all kinds.
- build on the accomplishments of recent years rather than departing radically from past law enforcement programs.

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[2] Cannabis is the plant from which the drug products marijuana and hashish are derived

its first policy directive on February 3, 1986. This directive established an interagency procedure for managing narcotics-related international crises such as the one that occurred when DEA Agent Enrique Camarena was killed in Mexico in 1985. The effect of the Policy Board's directive, from a policy standpoint, was to declare that serious drug-related incidents overseas would now be treated as crises, thereby activating systems for managing such crises established by Presidential Directive 27.[1] According to State Department officials, many drug-related incidents have necessitated Presidential Directive 27 being activated.

The second directive issued by the Policy Board designated lead agencies for each aspect of federal drug control efforts. This directive was issued to comply with a provision of the National Defense Authorization Act for fiscal year 1987 requiring the President to designate a lead agency responsible for air and border drug interdiction as well as domestic and foreign drug law enforcement efforts. The Policy Board, in responding to this requirement, went beyond the legislative requirement by also designating lead agencies for drug abuse prevention and treatment programs.

For the most part, the Policy Board designated as lead agencies those agencies which had assumed the responsibility. For example, the Policy Board designated DEA as the lead agency for drug investigations and intelligence, and the State Department as the lead agency for international drug control. These agencies have traditionally functioned as the lead agencies in these federal drug law enforcement areas.

The Policy Board also designated the Coast Guard as the primary agency for air interdiction surveillance and detection in the southeast coastal area and over international waters. However, Congress also played a role in this decision. A provision in the Anti-Drug Abuse Act of 1986 required that the Navy provide the Coast Guard with two E2C surveillance aircraft, thus introducing the Coast Guard to the air smuggling detection arena.

The Policy Board has coordinated and approved changes in policies related to implementing special drug law enforcement initiatives. For example, in order to implement Operation Alliance, a memorandum of understanding between Customs and DEA worked out by the Coordinating Group allows certain Customs agents to perform investigations of

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[1] Presidential Directive 27 describes a systematic method for our government to handle international crises that may have an impact on foreign relations.

- build on the 1984 National Strategy for Prevention of Drug Abuse and Drug Trafficking.[3]
- remain sufficiently flexible to adapt to changing threats, and to accommodate geographic peculiarities and differences in the drugs themselves.

The Policy Board recognizes serious limitations to the federal strategy. The Policy Board says that there are "limits to what a free society can do to curb illicit activity without unreasonable infringements on the legitimate pursuits of its people and institutions."[4] The Policy Board also says that reliable measures of effectiveness are lacking because the clandestine nature of drug trafficking limits the amount and accuracy of data.

How the Strategy Was Developed

The development of the strategy began in January 1986 when the Chairman of the Policy Board's Coordinating Group proposed five subcommittees to develop sections of the strategy consistent with existing federal efforts in drug law enforcement. One subcommittee chaired by Customs was to develop a strategy for drug interdiction efforts. Another subcommittee chaired by the State Department's Bureau of International Narcotics Matters was to develop a strategy for international efforts. Three other subcommittees chaired by DEA were to develop a strategy for investigations, state and local initiatives, and diversion of otherwise legal drugs into the illicit market.

According to minutes of Coordinating Group meetings, progress on the Strategy was delayed because of enactment of the Anti-Drug Abuse Act of 1986 which added more than $1 billion to the funds budgeted for drug law enforcement (from about $1.9 billion in fiscal year 1986 to about $3.0 in fiscal year 1987). By November 19, 1986, comments on a preliminary draft of the Strategy were provided by agencies involved in drug law enforcement and changes were made. In addition, several new sections had been added, which included a discussion of provisions of the Anti-Drug Abuse Act of 1986, updates on ongoing anti-drug activities, and a discussion of federal anti-drug efforts on the southwest border.

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[3] The 1984 National Strategy For Prevention of Drug Abuse and Drug Trafficking was prepared by The White House Drug Abuse Policy Office. It outlines the federal program for reducing the supply of and demand for drugs.

[4] National and International Drug Law Enforcement Strategy, January 1987, p. 6.

During the development of the Strategy, one objection to the approach being taken was raised. The minutes of the Coordinating Group meeting of December 17, 1986, noted that the Commissioner of Customs said, for the record, that Customs had not approved the draft strategy. The Commissioner expressed a preference for a strategy for each type of illicit drug being abused in the United States; i.e., a specific strategy for cannabis, cocaine, heroin, etc. At the time, the draft strategy was with the Policy Board for approval; therefore, the suggestion was discounted.

Strategy Is Primarily a Description of Existing Activities

The Strategy identifies five major components of the federal drug law enforcement strategy—intelligence, international drug control, interdiction and border control, investigation and prosecution, and diversion and controlled substance analogue regulation (this includes the diversion of legitimate pharmaceutical drugs and industrial chemicals used to synthesize drugs into the illicit market)—and describes the general nature and objectives of federal drug law enforcement activities relating to each component. The Policy Board intended that the Strategy provide broad guidance to federal agencies when planning or implementing new initiatives or modifying existing efforts.

The following excerpt from the Strategy illustrates how the Policy Board dealt with the intelligence component which it considers one of the most important components of federal drug law enforcement efforts. According to the Policy Board, improved intelligence capabilities may offer the best hope for better enforcement success.

In the Strategy, the Policy Board states that the federal intelligence strategy is to

- employ intelligence fully and in a balanced fashion;
- have intelligence agencies focus on producing accurate, timely estimates of drug cultivation, production, consumption, exportation, and seizures both inside and outside source countries;
- more thoroughly and accurately describe traffickers and their organizations, practices and affiliations;
- have organizations collecting intelligence standardize their methodologies for testing the accuracy of their data;
- coordinate the intelligence activities of law enforcement and intelligence communities;
- develop accurate indicators of patterns, trends, and degrees of smuggling activities;

- assess the capabilities and constraints of foreign military and law enforcement units to respond to drug threats;
- analyze the structure of trafficking organizations and identify their weaknesses; and
- effectively and efficiently use all enforcement agencies, including those of foreign source and transshipment countries.

Another illustration of the broad guidance offered by the Strategy relates to interdiction and border control. This section of the Strategy describes the components of the federal interdiction strategy including: detecting and intercepting smugglers during transit to the United States or at the U.S. border; responding flexibly and unpredictably to the changing smuggling threats; and developing new technologies to detect and intercept smugglers. This section also lists priority areas within each component. For example, a major detection priority is stated to be improving the collection and dissemination of intelligence needed to determine the existence, location, and techniques of drug traffickers.

Most of the officials we interviewed from agencies to which the Strategy applies, including those from the Coast Guard, Customs, and DEA, said the Strategy is useful because it combines a description of the broad strategies for each component of the federal drug law enforcement effort in one document. A few officials also noted that the Strategy, by outlining the general direction of federal drug enforcement efforts, provides a basis for future policy decisions regarding these efforts.

In the summer of 1987 the coordinating groups established committees to develop implementation plans for each of the components of the Strategy. According to the Assistant to the Chairman of the Policy Board, the committees have submitted their implementation plans to the coordination groups, and as of November 20, 1987, the plans were being reviewed by the coordination groups and were being presented to the Board.

Policy Board Has Not Developed Budgetary Priorities

Under the Comprehensive Crime Control Act of 1984, the Policy Board has the responsibility for and the authority to develop budgetary priorities among the various federal drug law enforcement programs. The act also states that the Chairman, on behalf of the Board, is authorized to review and approve the reprogramming of funds relating to budgetary priorities. At the first Board meeting in April 1985, the Chairman defined the Policy Board's role in the budget process as one of reviewing agency budget requests, making recommendations to the President, and determining where reallocations should be made. The Policy Board has contributed to providing a better understanding of federal expenditures for the various components of the federal strategy but has not developed budgetary priorities among these components.

Lack of Information Hindered Development of Budget Priorities

In the past, Congress has experienced difficulties in overseeing federal drug enforcement efforts because of the lack of information on expenditures for drug enforcement programs. This absence of information was evident when we prepared our 1983 report, Federal Drug Interdiction Efforts Need Strong Central Oversight (GAO/GGD-83-52, June 13, 1983). In preparing this report, we found it necessary to develop our own estimates of drug interdiction-related expenditures by Customs, the Coast Guard, and DEA, because these agencies did not account for specific expenditures in their law enforcement budgets.

In our 1983 report, we recommended that DEA, Customs, and Coast Guard officials work together to develop a management information system(s) that accumulates drug interdiction program results. We also recommended that the President make a clear delegation of responsibility to one individual to oversee federal drug law enforcement programs. Further, we recommended that such responsibilities include developing "a unified budget that will present a composite picture of all Federal resources being devoted to the drug war and present recommendations for rationalizing these efforts in terms of budgetary priorities."

In another report, Reported Federal Drug Abuse Expenditures-Fiscal Years 1981 to 1985 (GAO/GGD-85-61, June 3, 1985), we also noted a deficiency in the reports agencies were required to prepare on their overall outlays for drug abuse programs for inclusion in the Federal Drug Abuse Budget Summary issued by the White House Drug Abuse Policy Office. The Federal Drug Abuse Summary included overall expenditures for drug abuse control by agency, but did not break out expenditures for specific programs such as drug interdiction or investigations. In our report, we also noted that the White House Drug Abuse Policy Office had not established specific criteria for agencies to follow in allocating drug-related expenditures such as expenditures for headquarters overhead, resulting in the inconsistent reporting of such expenditures.

At the March 1986 Policy Board meeting, the Chairman directed the Coordinating Group and the Policy Board staff to begin studies that would recommend policy and strategy alternatives as well as resource allocations. However, we found no evidence that studies recommending resource allocations were performed. The House Committee on Government Operations which also looked into this issue, was told by the Treasury's Assistant Secretary for Enforcement that the studies were not undertaken because of the difficulty in assigning comparative values to different drug law enforcement strategies.

The difficulty in assigning comparative values was also alluded to in the Policy Board Strategy. The Board said that one limitation of the Strategy was the lack of reliable measures of effectiveness because the clandestine nature of drug trafficking limits the amount and accuracy of data.

Policy Board Has Sponsored Improvement of Information on Drug Control Programs

Recognizing the problem of limited and inconsistent information on agency drug control expenditures, the Policy Board sponsored the development of an improved system for reporting such expenditures. In September 1985, the Chairman of the Policy Board tasked the Coordinating Group and OMB to develop a process for agencies to follow in compiling information on their drug control resource allocations. After consulting with the Policy Board staff, OMB issued new guidelines at the May 1986 Coordinating Group meeting. The agencies represented on the Coordinating Group used these guidelines to calculate their fiscal year 1987 and fiscal year 1988 drug control budget summaries which included breakdowns of expenditures for each component of the Policy Board's Strategy. (They also reevaluated their drug control summaries for fiscal year 1981 through fiscal year 1986 based on the new guidelines.) The agencies subsequently submitted these summaries to OMB for review and consolidation. OMB's consolidated fiscal year 1981 through fiscal year 1988 summaries and these were included in the National and International Drug Law Enforcement Strategy.

As discussed above, the coordinating groups have established committees to develop implementation plans for each of the components of the Strategy. According to the Assistant to the Chairman of the Policy Board, the implementation plans will contain measurable objectives for each of the federal programs that make up the components of the Strategy. He said that information has also been developed on current and planned spending for each of the programs. With regard to whether the Policy Board would use this information in establishing budgetary priorities, the Assistant to the Chairman of the Policy Board said the Policy Board would have to approve the implementation plans before deciding whether to use them to set such priorities.

Conclusion

The Comprehensive Crime Control Act of 1984 provides the Policy Board with the responsibility for and the authority to review, evaluate, and develop drug law enforcement policy, strategy, and budgetary priorities. The Policy Board has developed policy to the extent that it has issued two policy directives and made policy decisions to facilitate special drug enforcement operations, such as Operation Alliance. In the area of drug law enforcement strategy, the Policy Board has exercised its responsibility and authority by issuing the National and International Drug Law Enforcement Strategy, which is an amalgamation of the existing strategies employed by drug law enforcement agencies. We believe that these actions are consistent with the charge in the Comprehensive Crime Control Act of 1984.

The Policy Board, however, has been hindered in developing budgetary priorities, because it lacks the information necessary to determine which drug law enforcement initiatives merit priority. This is the same problem we identified in our 1983 report when we recommended that the President make a clear delegation of responsibility to one individual to oversee federal drug law enforcement programs. We recommended that such responsibilities include developing "a unified budget that will present a composite picture of all Federal resources being devoted to the drug war and present recommendations for rationalizing these efforts in terms of budgetary priorities."

At the Board's prompting, a consolidated drug control budget including breakdowns of expenditures for specific federal drug control programs was developed. This was a logical first step for developing budgetary priorities.

A logical second step would be the development of measurable objectives for each component of the anti-drug program that are expected to be achieved through the federal expenditures. The Board has initiated the second step by directing the development of plans for the implementation of the National and International Drug Law Enforcement Strategy, which includes objectives for the programs that make up the Strategy. Data from the Board's initiatives could be the basis for developing the necessary priorities. Whether the data contained in the implementation plans provides the Policy Board with the necessary information to begin setting budgetary priorities and whether the Policy Board uses the information for that purpose remains to be seen.

GAO

Special Report From The
Comptroller General Of The United States

Controlling Drug Abuse: A Status Report

GAO/GGD-88-39

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Message From The Comptroller General Of The United States

Throughout the 1980s, the nation witnessed a great increase in federal drug control efforts. Congress passed two major pieces of legislation, the Comprehensive Crime Control Act of 1984 and the Anti-Drug Abuse Act of 1986, to strengthen existing drug statutes and provide new tools for greater drug control effectiveness. The 1986 act significantly increased the amount of federal money and resources available for drug abuse control. The federal budget for drug abuse control climbed from $1.2 billion in 1981 to nearly $4 billion in 1987. In an era of budget deficits and budget-cutting, this large increase reflects the heightened national concern over drug abuse and drug trafficking.

This report is designed to provide an overview of the drug problem and federal response, particularly for those Members of Congress, the executive branch, and the public who are concerned about the problem but who have not participated in key policy decisions. Our goal is to help these groups better understand the nature and dimensions of the drug problem and federal anti-drug efforts. In this regard, the report should be particularly useful to participants at the White House Conference for a Drug Free America, mandated by the Anti-Drug Abuse Act of 1986, as they assess our drug problems and work to develop more effective national strategies.

The report describes the drug problem in the 1980s nationally and in six major cities (Washington, D.C., New York, Miami, Chicago, Los Angeles, and San Francisco) whose drug problems are among the worst in the nation. It contains indicators of the prevalence of illegal drug use, drug-related hospital emergencies and deaths, and the availability of illegal drugs. We also present information on trafficking and production and the extent and cost of federal drug abuse control efforts.

We plan to periodically update these data in future reports, so Congress can use this information as a baseline and judge whether the funds it provides to the executive branch are having the desired effect.

We collected nationwide data from federal organizations involved in drug control. We also sought local views on the drug problem from law enforcement and health officials in six U.S. cities. Appendix I—Objectives, Scope, and Methodology—describes our data sources and the limitations of the data presented in the report.

This report shows that the supply of and demand for illegal drugs persist nationwide and continue to adversely affect American society, despite significant increases in federal anti-drug efforts. The report also shows that the six cities we visited reflected national trends regarding the availability of major drugs, but problems in each city involving particular drugs, drug forms, and methods of drug ingestion were often unique and localized to that city.

Opinions vary about what the federal government should do to control drug abuse. Experts disagree about which anti-drug programs work best, the proper mix of anti-drug programs, and the level of resources needed to make anti-drug efforts successful. Some experts believe that devoting more resources—money, personnel, and equipment—to law enforcement will reduce the supply of drugs available for use. Others say we must increase our efforts to eradicate drug production in foreign countries and shut off supplies at their source. An increasing number of experts believe that a higher priority and more resources must be assigned to reducing the demand for drugs through programs aimed at preventing drug abuse, treating drug abusers, and conducting research on the causes and cures of drug abuse. Some experts believe that substantial reductions in drug abuse will not occur unless there are fundamental changes in cultural attitudes and values which decrease society's demand for illegal drugs.

During the 1980s, GAO has issued to Congress over 40 reports and has presented numerous testimonies on various aspects of the government's efforts to combat the drug problem. The results of our work do not provide clear-cut answers as to the appropriate mix of anti-drug programs or the priority and level of resources which the federal government should devote to drug abuse control. Such decisions are exceedingly difficult to make and require a broad focus and synthesis of the government's efforts. Unfortunately, the ability of Congress and the executive branch to effectively address the overall issue is greatly hampered by the absence of factual information about which anti-drug programs work best. Existing data systems portray general drug trends and help gauge the overall impact of the federal drug strategy but do not adequately measure the effectiveness of specific federal drug control efforts. Moreover, despite numerous organizational changes, fragmented and uncoordinated anti-drug policies and programs remain obstacles to the success of federal drug abuse control efforts.

We have repeatedly pointed out problems caused by the fragmentation of federal anti-drug efforts among several cabinet departments and agencies and the resulting lack of coordination of federal drug abuse control policies and programs. Differing agency priorities, interagency rivalries, conflicts, and jurisdictional disputes have impeded drug abuse control efforts in the past, and continue to present obstacles to the success of the government's anti-drug programs. Congress and the executive branch have made several organizational changes over the past 20 years aimed at reducing fragmentation. But those changes have not succeeded in resolving conflicts among federal anti-drug policies and programs.

Additional organizational changes, such as the proposed establishment of a Director of National Drug Control Policy, may help. Organizational changes by themselves, however, are insufficient to accomplish the goal of stronger leadership and more centralized oversight and coordination of federal anti-drug policy. Such changes can succeed only if they are accompanied by a firm and continuing commitment by the President and Congress to resolve conflicts in the government's anti-drug programs.

GAO has conducted numerous reviews of specific federal anti-drug programs since the early 1970s. In our future work, we propose to broaden our focus and concentrate on evaluating the overall effectiveness of drug abuse control efforts. In particular, we will attempt to identify ways to improve Congress' ability to make decisions about which anti-drug programs work best and where limited federal resources should be concentrated.

Charles A. Bowsher

Comptroller General of the United States

Managing Federal Drug Control Efforts

Despite enhanced federal anti-drug efforts—increased funding, new supply and demand reduction initiatives, and increased drug seizures and arrests—the nation's drug problem persists. Opinions vary about what the federal government should do to control drug abuse. Experts disagree about which anti-drug programs work best, the proper mix of anti-drug programs, and the level of resources needed to make anti-drug efforts successful. While we cannot quantify the impact of federal efforts on drug abuse and trafficking, it seems likely that the problem would be more serious had anti-drug efforts not increased.

Some experts believe that devoting more resources—money, personnel, and equipment—to anti-smuggling efforts will reduce the supply of drugs available for use. Others say we must increase our efforts to eradicate drug production in foreign countries and shut off supplies at their source. An increasing number of experts believe that a higher priority and increased resources must be assigned to reducing the demand for drugs through programs aimed at preventing drug abuse, treating drug abusers, and conducting research on the causes and cures of drug abuse. Regardless of their views on the appropriate strategy and level of resources for anti-drug efforts, some experts believe that substantial reductions in drug abuse will not occur unless there are fundamental changes in cultural attitudes and values which decrease society's demand for illegal drugs.

Over the past 15 years, we have made numerous evaluations of the nation's drug problem and federal anti-drug efforts (see app. II). The results of our work do not provide clear-cut answers as to the appropriate mix of anti-drug programs or the priority and level of resources which the federal government should devote to drug abuse control. To begin to seek the answers, Congress and the executive branch need factual information about which anti-drug programs work best. Unfortunately, there is little such information available.

Moreover, despite numerous organizational changes over the past 20 years, fragmented and uncoordinated anti-drug policies and programs remain obstacles to the success of federal drug abuse control efforts.

Measures Of Program Effectiveness Are Needed

One of the most important decisions that Congress and the executive branch must make about government programs is resource allocation. In the area of drug abuse control, as in other areas of government, Congress and the executive branch must agree on the total amount of resources which the government should allocate to the area, as well as how those resources should be divided among specific programs. We believe that making good decisions about the allocation of resources to federal drug control efforts requires soundly based measures of program effectiveness. Existing data systems portray general drug trends and help gauge the overall impact of the federal drug strategy, but do not adequately measure the effectiveness of specific federal drug control efforts.

We recognize that measuring effectiveness is difficult. First, drug abuse control efforts are mutually supportive; it is difficult to isolate the full impact and effectiveness of a single program such as drug interdiction. Second, the clandestine nature of drug production, trafficking, and use limits the quality and quantity of data that can be collected to measure program success. Third, the data that are collected—for example, the data used to prepare estimates of drug availability and consumption—are generally not designed to measure program effectiveness.

Despite these difficulties, the government can and should do more to develop measures of program effectiveness. The development of reliable effectiveness measures for drug abuse control programs should be assigned a high priority by Congress in its oversight and legislative functions, and by the President and his cabinet members in administering anti-drug programs. Such action would significantly improve the ability of Congress and the executive branch to make decisions about the allocation of budget resources to drug abuse control programs.

Organizational Changes Have Not Resolved Interagency Conflicts

In reports and testimonies dating back to the early 1970s, we have repeatedly pointed out problems caused by the fragmentation of federal anti-drug efforts among several cabinet departments and agencies,[1] and the resulting lack of coordination of federal drug abuse control policies and programs. Differing agency priorities and interagency rivalries, conflicts, and jurisdictional disputes have impeded drug abuse control efforts in the past and continue to present obstacles to the success of the government's anti-drug programs.

Over the past 20 years, numerous organizational changes have been made to reduce the fragmentation of federal anti-drug efforts. These changes have had the aim of improving coordination and strengthening leadership and oversight. For example:

- In 1966, the Bureau of Drug Abuse Control (BDAC) was established within the Department of Health, Education and Welfare to enforce federal laws over the manufacture, distribution, and sale of dangerous drugs such as stimulants and depressants.
- In 1968, President Johnson established the Bureau of Narcotics and Dangerous Drugs (BNDD) in the Justice Department, consolidating functions previously performed by the Federal Bureau of Narcotics (FBN) in the Treasury Department and BDAC in the Department of Health, Education and Welfare.
- In 1971, President Nixon created the Cabinet Committee on International Narcotics Control, charged with setting a strategy to check the flow of illegal drugs into the United States and coordinating federal efforts abroad.
- In 1971, President Nixon also established the Special Action Office for Drug Abuse Prevention (SAODAP) by executive order, and charged the Office with coordinating all federal demand reduction efforts.
- In 1972, President Nixon established the Office for Drug Abuse Law Enforcement (ODALE) and the Office of National Narcotics Intelligence (ONNI) in the Department of Justice. The ODALE Director was designated by the President as a Special Assistant Attorney General. The Director also served as a Special Consultant to the President for Drug Abuse Law Enforcement to advise him on all matters relating to more effective enforcement by all federal agencies. ONNI was responsible for developing and maintaining a national narcotics intelligence system.
- In 1972, Congress enacted the Drug Abuse Office and Treatment Act which statutorily authorized SAODAP for 3 years. The act also established NIDA within the Department of Health, Education and Welfare to administer federal demand reduction programs. In addition, the act created the Strategy Council on Drug Abuse, whose primary responsibility was to develop a comprehensive federal drug abuse control strategy.

[1] GAO identified at least 10 cabinet departments, 29 agencies, and various multiagency organizations involved in carrying out the federal drug strategy.

- In 1973, President Nixon, through Reorganization Plan Number 2, created the Drug Enforcement Administration in the Justice Department and assigned the new agency responsibility for all federal drug investigations. BNDD, ODALE, and ONNI were abolished. Their functions and resources along with Customs' drug investigative and intelligence-gathering functions were transferred to DEA. Customs' anti-drug role was limited to interdiction of illegal drugs at U.S. borders and ports-of-entry.
- In 1976, Congress established the Office of Drug Abuse Policy to oversee and coordinate federal anti-drug policies and programs. President Carter nominated a director of the Office in 1977, then took steps to abolish it later that year. The Office's functions were absorbed by a drug policy office within the Domestic Policy Staff of the Executive Office of the President. In June 1982, President Reagan issued an executive order officially designating the Office as the Drug Abuse Policy Office.

In a 1979 report to Congress, we assessed the federal government's efforts to reduce the supply of illegal drugs in this country during the previous 10 years.[2] In that report, we said that one of the main reasons the government had not been more effective was the long-standing problem of fragmented federal drug supply reduction activities.

The same report concluded that the federal government had failed to provide a central mechanism with the responsibility and authority to plan and coordinate all federal drug supply reduction efforts and to be accountable for effective implementation of a consistent federal drug policy. We proposed that the executive and legislative branches of government reach agreement on a national drug abuse policy, enact necessary legislation, and provide the requisite oversight to ensure that the agreed-upon policy was vigorously carried out. We also said that the authority to direct and coordinate drug supply reduction policy and programs should be clearly delegated to someone acting on behalf of the President.

The need for strong leadership and central oversight was also the theme of our 1983 report to Congress.[3] In this report, we focused on federal efforts to interdict illegal drugs being smuggled into the country. We concluded that the fragmentation of these activities limited their effectiveness.

We noted that authority and responsiblity for federal interdiction efforts were divided among three agencies—Customs, the Coast Guard, and DEA—in three separate departments—Treasury, Transportation, and Justice. We also noted that each agency had different programs, goals, and priorities, and that this led to inefficiency and interagency conflict. Our report pointed out that these problems with interdiction programs were only one manifestation of a broader problem: the need for centralized direction and greater coordination of all federal drug supply reduction activities.

To promote cohesive and centralized oversight of federal drug law enforcement efforts, we recommended that the President (1) direct the development of a more definitive federal drug strategy that stipulates the roles of the various agencies with drug enforcement responsibilities and (2) make a clear delegation of responsibility to one individual to oversee federal drug enforcement programs. We recommended that the responsibilities of this individual include:

- developing and reviewing U.S. government policy with respect to illegal drugs;
- providing for effective coordination of federal efforts to control the production, halt the flow into the United States, and stop the sale and use of illegal drugs;

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[2] *Gains Made in Controlling Illegal Drugs, Yet the Drug Trade Flourishes* (GAO/GGD-80-4, Oct. 25, 1979).

[3] *Federal Drug Interdiction Efforts Need Strong Central Oversight* (GAO/GGD-83-52, June 13, 1983).

- developing a unified budget that would present (1) a composite picture of all federal resources being devoted to the drug war and (2) recommendations for rationalizing these efforts in terms of budgetary priorities; and
- collecting and disseminating information necessary to implement and evaluate U.S. policy with respect to illegal drugs.

Recent Efforts To Strengthen Leadership And Central Oversight

Congress and the Administration, through the National Narcotics Act of 1984 (Public Law 98-473), established the National Drug Enforcement Policy Board to provide stronger leadership and more centralized direction to federal drug supply reduction efforts. The Attorney General was designated as Chairman of the Board. Other members, as originally constituted, included the Secretaries of State, the Treasury, Defense, Transportation, and Health and Human Services; and the Directors of the Office of Management and Budget and the Central Intelligence Agency, with a provision for additional members as appointed by the President.

On March 26, 1987, the President signed Executive Order 12590 creating the National Drug Policy Board to oversee all federal drug control programs, including demand reduction efforts. The new Board, which absorbed the functions of the statutorily mandated National Drug Enforcement Policy Board, is now in charge of all anti-drug policy for the federal government. The Attorney General is Chairman, and the Secretary of the Department of Health and Human Services is Vice-Chairman. We think this is a positive step, but believe it is too early to say whether the new Board eventually will be successful in achieving a balanced, effective, and well-coordinated federal anti-drug policy. In a report issued in February 1988, we concluded that the Board could play a more active role in setting budget priorities for drug abuse control programs.[4]

Prior to, and since the establishment of the Policy Board, there has been a continuing debate in Congress over the merits of designating a single individual, rather than a board, to oversee federal drug abuse control policy and programs. Whether there should be one individual or a board to coordinate policy is debatable and needs careful consideration. This consideration should recognize that organizational changes by themselves are insufficient to accomplish the goal of stronger leadership and more centralized oversight and coordination of federal anti-drug policy.

Although past organizational changes sometimes have had positive results, our evaluations of federal anti-drug efforts indicate that none has significantly altered the fragmentation and lack of coordination that still exists in federal drug abuse control policy and programs. Additional organizational changes, such as the proposed establishment of a Director of National Drug Control Policy, may be desirable and needed. However, solving the nation's drug abuse problem will be a long-term process that will require a strong and enduring commitment by the President and Congress to anti-drug efforts and to resolving policy and program conflicts.

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[4] *National Drug Policy Board: Leadership Evolving, Greater Role in Developing Budgets Possible* (GAO/GGD-88-24, Feb. 12, 1988).

Appendix II

Selected GAO Reports And Testimonies Since Fiscal Year 1980 Related To Federal Drug Control Efforts

Coordination, Oversight, And Policy

National Drug Policy Board: Leadership Evolving, Greater Role in Developing Budgets Possible. GAO/GGD-88-24, 2/12/88.

Interagency Agreements: Customs-Coast Guard Agreement for U.S.-Bahamas Drug Task Force Was Proper. GAO/AFMD-87-69, 8/31/87.

The Need for Strong Central Oversight of the Federal Government's War on Drugs. Testimony before the House Select Committee on Narcotics Abuse and Control, Senate Committee on the Judiciary. GAO/T-GGD-87-17, 5/14/87.

Reported Federal Drug Abuse Expenditures—Fiscal Years 1981 to 1985. GAO/GGD-85-61, 6/3/85.

The Need to Control Prescription Drug Abuse. Testimony before the House Committee on the Judiciary: Crime Subcommittee. 6/29/83.

Interdepartmental Cooperation of Drug Enforcement Programs. Testimony before the House Committee on Government Operations: Government Information, Justice and Agriculture Subcommittee. 2/25/83.

Drug Enforcement Coordination. Testimony before the House Committee on the Judiciary: Crime Subcommittee. 2/17/83.

Comprehensive Approach Needed to Help Control Prescription Drug Abuse. GAO/GGD-83-2, 10/29/82.

FBI-DEA Task Forces: An Unsuccessful Attempt at Joint Operations. GAO/GGD-82-50, 3/26/82.

Narcotics Enforcement Policy. Testimony before the House Committee on the Judiciary: Crime Subcommittee. 12/10/81.

Changes Needed to Strengthen Federal Efforts to Combat Narcotics Trafficking. Testimony before the Senate Committee on Appropriations: Treasury, Postal Service and General Government Subcommittee. 4/22/80.

Drug Abuse Problem in the Southwest. Testimony before the Senate Committee on Appropriations: Commerce, Justice, State, the Judiciary and Related Agencies Subcommittee. 4/14/80.

Federal Drug Enforcement and Supply Control Efforts. Testimony before the House Committee on Energy and Commerce: Commerce, Transportation and Tourism Subcommittee. 3/10/80.

Gains Made in Controlling Illegal Drugs, Yet the Drug Trade Flourishes. GAO/GGD-80-4, 10/25/79.

Domestic Marijuana

Additional Actions Taken to Control Marijuana Cultivation and Other Crimes on Federal Lands. GAO/RCED-85-18, 11/28/84.

Law Enforcement Efforts to Control Domestically Grown Marijuana. GAO/GGD-84-77, 5/25/84.

Financial Tools And Asset Forfeitures

Asset Forfeiture Funds: Changes Needed to Enhance Congressional Oversight. Testimony before the Senate Committee on Governmental Affairs: Federal Spending, Budget and Accounting Subcommittee. GAO/T-GGD-87-27, 9/25/87.

Millions of Dollars in Seized Cash Can Be Deposited Faster. Testimony before the Senate Committee on Governmental Affairs: Federal Spending, Budget and Accounting Subcommittee. GAO/T-GGD-87-7, 3/13/87.

Internal Controls: Drug Enforcement Administration's Use of Forfeited Personal Property. GAO/GGD-87-20, 12/10/86.

Bank Secrecy Act: Treasury Can Improve Implementation of the Act. GAO/GGD-86-95, 6/11/86.

Better Care and Disposal of Seized Cars, Boats and Planes Should Save Money and Benefit Law Enforcement. GAO/PLRD-83-94, 7/15/83.

Consideration of Whether the Existing Tax Disclosure Statute Strikes a Proper Balance Between Privacy Rights and Law Enforcement Needs. Testimony before the House Committee on Ways and Means: Oversight Subcommittee. 12/14/81.

Improving the Effectiveness of Criminal Forfeitures of Assets. Testimony before the House Committee on the Judiciary: Crime Subcommittee. 9/16/81.

Asset Forfeiture—A Seldom Used Tool in Combating Drug Trafficking. GAO/GGD-81-51, 4/10/81.

Implementation of Bank Secrecy Act's Reporting Requirements. Testimony before the House Committee on Banking, Finance and Urban Affairs: General Oversight and Investigations Subcommittee. 10/1/80.

Taking the Profit Out of Crime. Testimony before the Senate Committee on the Judiciary: Criminal Justice Subcommittee. 7/23/80.

Interdiction

Drug Smuggling: Large Amounts of Illegal Drugs Not Seized by Federal Authorities. GAO/GGD-87-91, 6/12/87.

The U.S. Customs Service's Command, Control, Communications and Intelligence Center Program. Testimony before the Senate Committee on Governmental Affairs: Permanent Subcommittee on Investigations. GAO/T-GGD-87-8, 3/18/87.

Federal Drug Interdiction Efforts. Testimony before the House Committee on Government Operations: Government Information, Justice and Agriculture Subcommittee, 9/9/86.

Coordination of Federal Drug Interdiction Efforts. GAO/GGD-85-67, 7/15/85.

Installation of an Air Force F-15 Aircraft Radar in a Navy P-3A Aircraft for Use by the Customs Service. GAO/NSIAD-85-31, 2/14/85.

The Role of the National Narcotics Border Interdiction System in Coordinating Federal Drug Interdiction Efforts. Testimony before the House Committee on Government Operations: Government Information, Justice and Agriculture Subcommittee. 3/21/84.

The Need for Improved Intelligence Capabilities to Support Drug Interdiction Programs. Testimony before the House Committee on Government Operations: Government Information, Justice and Agriculture Subcommittee. 7/7/83.

Federal Drug Interdiction Efforts Need Strong Central Oversight. GAO/GGD-83-52, 6/13/83.

Coast Guard Drug Interdiction on the Texas Coast. GAO/CED-81-104, 5/19/81.

International Drug Control

Drug Control: River Patrol Craft for the Government of Bolivia. GAO/NSIAD-88-101FS, 2/2/88.

Drug Control: U.S.-Mexico Opium Poppy and Marijuana Aerial Eradication Program. GAO/NSIAD-88-73, 1/11/88.

U.S.-Mexico Opium Poppy and Marijuana Aerial Eradication Program. Testimony before the House Select Committee on Narcotics Abuse and Control. GAO/T-NSIAD-87-42, 8/5/87.

Status Report on GAO Review of the U.S. International Narcotics Control Program. Testimony before the House Committee on Foreign Affairs: Special International Narcotics Control Subcommittee. GAO/T-NSIAD-87-40, 7/29/87.

Drug Control: International Narcotics Control Activities of the United States. GAO/NSIAD-87-72BR, 1/30/87.

Suggested Improvements in Management of International Narcotics Control Program. GAO/ID-81-13, 11/13/80.

Investigations

Drug Investigations: Organized Crime Drug Enforcement Task Force Program's Accomplishments. GAO/GGD-87-64BR, 5/6/87.

Drug Investigations: Organized Crime Drug Enforcement Task Force Program: A Coordinating Mechanism. GAO/GGD-86-73BR, 7/17/86.

Customs Service's Participation in Follow-Up Investigations of Drug Smuggling Interdictions in South Florida. GAO/GGD-84-37, 7/18/84.

Investigations of Major Drug Trafficking Organizations. GAO/GGD-84-36, 3/5/84.

Organized Crime Drug Enforcement Task Forces: Status and Observation. GAO/GGD-84-35, 12/9/83.

Stronger Crackdown Needed on Clandestine Laboratories Manufacturing Dangerous Drugs. GAO/GGD-82-6, 11/6/81.

The Drug Enforcement Administration's CENTAC Program—An Effective Approach to Investigating Major Traffickers That Needs to be Expanded. GAO/GGD-80-52, 3/27/80.

Military Role

Drug Law Enforcement: Military Assistance for Anti-Drug Agencies. GAO/GGD-88-27, 12/23/87.

Coordination of Requests for Military Assistance to Civilian Law Enforcement Agencies. GAO/GGD-84-27, 11/2/83.

Military Cooperation with Civilian Law Enforcement Agencies. Testimony before the House Committee on the Judiciary: Crime Subcommittee. 7/28/83.

Sentences And Fines

Criminal Penalties Resulting from the Organized Crime Drug Enforcement Task Forces. GAO/GGD-87-29BR, 12/22/86.

Criminal Fines: Imposed and Collected as a Result of Investigations of the Organized Crime Drug Enforcement Task Force Program. GAO/GGD-86-101FS, 6/27/86.

Organized Crime Figures and Major Drug Traffickers: Parole Decisions and Sentences Served. GAO/GGD-85-29, 4/4/85.

Sentences and Fines for Organized Crime Figures and Major Drug Traffickers. GAO/GGD-85-19, 4/4/85.

Treatment And Prevention

Drug Abuse Prevention. Further Efforts Needed to Identify Programs That Work. GAO/HRD-88-26, 12/4/87.

Block Grants: Federal Set-Asides for Substance Abuse and Mental Health Services. GAO/HRD-88-17, 10/14/87.

Substance Abuse: Description of Proposed State Allotment Grant Formulas. GAO/HRD-86-140FS, 9/10/86.

Improvements in the Alcohol, Drug Abuse and Mental Health Block Grant Distribution Formula Can be Made Both Now and in the Future. GAO/GGD-84-88, 6/21/84.

States Have Made Few Changes in Implementing the Alcohol, Drug Abuse and Mental Health Services Block Grant. GAO/HRD-84-52, 6/6/84.

Drug Suppression/Habitual Offender Program Awards Were Proper. GAO/GGD-84-44, 4/3/84.

State Implementation of the Alcohol, Drug Abuse and Mental Health Block Grant. Testimony before the Senate Committee on Labor and Human Resources. 3/7/84.

Action Needed to Improve Management and Effectiveness of Drug Abuse Treatment. GAO/HRD-80-32, 4/14/80.

Other Topics

Federal Employee Drug Testing. Testimony before the House Committee on Post Office and Civil Service: Human Resources Subcommittee. GAO/T-GGD-87-18, 5/20/87.

Comments on Mandatory Drug Testing for Federal Employees. Testimony before the House Committee on Post Office and Civil Service: Human Resources Subcommittee. 9/25/86.

National Parks: Allegations Concerning Yosemite National Park Drug Investigation. GAO/RCED-86-67FS, 12/20/85.

Heroin Statistics Can be Made More Reliable. GAO/GGD-80-84, 7/30/80.

Abbreviations

ADAMHA	Alcohol, Drug Abuse and Mental Health Administration
AIDS	Acquired Immune Deficiency Syndrome
BDAC	Bureau of Drug Abuse Control
BNDD	Bureau of Narcotics and Dangerous Drugs
CEWG	Community Epidemiology Work Group
Customs	United States Customs Service
DAWN	Drug Abuse Warning Network
DEA	Drug Enforcement Administration
FBI	Federal Bureau of Investigation
FBN	Federal Bureau of Narcotics
GAO	General Accounting Office
IV	Intravenous
LAPD	Los Angeles Police Department
LSD	Lysergic Acid Diethylamide
NIDA	National Institute on Drug Abuse
NNBIS	National Narcotics Border Interdiction System
NNICC	National Narcotics Intelligence Consumers Committee
NYPD	New York Police Department
ODALE	Office for Drug Abuse Law Enforcement
ONNI	Office of National Narcotics Intelligence
PCP	Phencyclidine
SAODAP	Special Action Office for Drug Abuse Prevention

IV. OFFICE OF TECHNOLOGY ASSESSMENT STUDY

THE BORDER WAR ON DRUGS

CONGRESS OF THE UNITED STATES
Office of Technology Assessment
Washington, DC 20510-[illegible]

Office of Technology Assessment

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THE BORDER WAR ON DRUGS

CONGRESS OF THE UNITED STATES
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Foreword

Smuggling of illegal drugs into the United States is a problem of serious proportions. The three major drugs of foreign source—cocaine, heroin, and marijuana—are the products traded by an enormous criminal enterprise whose retail sales total approximately $50 billion annually. Federal efforts to stop or deter international narcotics trafficking have met with only limited success.

The Office of Technology Assessment was requested by the Senate Committee on Appropriations to conduct an analysis of Federal drug interdiction efforts and to report on technological opportunities for future improvements. The study characterizes the drug smuggling problem and the interdiction efforts now in place within the responsible Federal agencies. It describes technologies in use, under development, and potentially available for countering smuggling by the various modes—private vessels, private aircraft, land vehicles, commercial carriers, and through official ports of entry. The report also highlights OTA's principal findings, focusing on: the need for comprehensive design of integrated technological systems, the need for long-range planning for employing technologies, the need for integrated strategies, and the need for data and methods to measure effectiveness.

There are many issues that this OTA study did not cover because they were considered either outside the boundary of the congressional request or beyond the scope of the study given the OTA resources devoted to it. Among the issues not examined are: the demand side of the drug problem; international initiatives to control production; investigation and prosecution of drug traffickers; domestic production and distribution of drugs; civil liberty concerns about law enforcement activities; impacts of drug law enforcement on legitimate commerce or private use of border areas. Even though not covered in this study, these issues are important and must be considered when formulating sound public policy.

OTA is grateful for the considerable assistance provided during the conduct of this study by our advisory panel, an agency advisory group, numerous other contacts within the several Federal agencies, and a number of additional consultants or advisors. These individuals have made it possible for OTA to use comprehensive, accurate, and current information in analyzing this complex subject with numerous Federal entities. They have also enabled OTA to examine the problem from a number of important perspectives. We appreciate the help and advice from all these individuals.

John H. Gibbons

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ILLEGAL DRUGS: HOW BIG IS THE PROBLEM?

1985 Analysis

- Approximately 36 million people (19 percent of the household population ages 12 years and older) have tried marijuana, cocaine, or other illicit drugs at least once in the past year and 23 million people (12 percent) at least once during the month prior to being surveyed in the 1985 National Household Survey on Drug Abuse.
- Among the employed 20 to 40 year olds, 29 percent reported use of an illicit drug in the past year and 19 percent reported some illicit drug use at least once in the past month.
- Among employed 20 to 40 year olds, 16 percent reported using marijuana and 5 percent reported using cocaine at least once in the past month.
- Among 18 to 34 year-old women (i.e., in the primary childbearing ages), 30 percent used an illicit drug at least once last year and 18 percent used an illicit drug at least once in the past month.

Trend Analysis

- Current use of marijuana (past month use) decreased from 20.0 million in 1982 to 18.2 million in 1985. This represents a decrease in rate of use from 11 percent of the household population aged 12 and older in 1982 to 10 percent in 1985.
- Current use of cocaine (past month use) increased from 4.2 million in 1982 to 5.8 million in 1985. This represents an increase in rate of use from 2 percent of the household population aged 12 and older in 1982 to 3 percent in 1985.
- Compared with 1979 and 1982 levels, the 18- to 25-year-old group was most likely to have stabilized or decreased their use of most drugs in 1985. In contrast, the 26-year and over age group was most likely to have increased their use of drugs. The increase in this age group is at least partially explained by the aging of individuals who began using drugs in previous years.

SOURCE: 1985 National Household Survey on Drug Abuse, National Institute on Drug Abuse.

SUMMARY

Despite a doubling of Federal expenditures on interdiction over the past 5 years, the quantity of drugs smuggled into the United States is greater than ever. Illegal imports of cocaine, the drug now of intense national concern, have about doubled since 1981, supplying a growing number of users at prices that have fallen as the supply has increased.

The challenge faced by drug enforcement agencies is formidable. OTA estimates that U.S. retail sales of marijuana, cocaine, and heroin totaled about $50 billion in 1985. A survey taken at that time indicated that 18.2 million Americans used marijuana once or more a month and 5.8 million were monthly users of cocaine. Overall, 10 percent of the population over age 12 were found to be monthly users of marijuana and 3 percent monthly users of cocaine. Other data indicate that 500,000 persons in this country use heroin regularly.[1]

The large market, coupled with the huge profits to be made by transporting drugs from foreign suppliers to domestic wholesalers, fuels this illegal traffic. OTA estimates that the mark-up between foreign and domestic wholesale prices is on the order of 20 to 30 times for marijuana, 4 to 5 for cocaine, and 30 to 40 for heroin. In 1985, the value added to the product through smuggling was roughly $6 billion for marijuana, $1.6 billion for cocaine, and $1 billion for heroin. Of this, perhaps 90 percent (over $7 billion) was realized as profit by drug smugglers.

The drug traffic moves by a great variety of transport modes and routes to reach the United States. Most imported marijuana comes either by sea in private vessels or by land across the Mexican border, but private aircraft and commercial

WHAT IS INTERDICTION?

In this study, interdiction refers to efforts to intercept or to deter the shipment of illegal drugs (chiefly marijuana, cocaine, and heroin) from foreign countries to the United States. It does not include actions in source countries to reduce cultivation or to disrupt criminal organizations responsible for processing and shipment. Neither does it include actions to pursue and to neutralize drug trafficking organizations and distribution networks within the United States, although all these actions are part of the overall Federal strategy to control drug use. Interdiction focuses on drugs in transit to the U.S. border, including both those shipments concealed in legitimate commerce that seek to pass through ports of entry and those that attempt to penetrate the border surreptitiously in private aircraft, boats, and land vehicles or carried by persons on foot.

---

[1] The number of regular marijuana users and heroin addicts has been reported in the annual Narcotics Intelligence Estimate published by DEA and in the most recent (June 1986) DEA Special Report, "Worldwide Drug Assessment." Estimates of heroin addicts are based on a 1981 survey. Marijuana usage is based on 1982 and 1985 NIDA "Household Surveys." The 1985 National Household Survey on Drug Abuse published by the National Institute on Drug Abuse puts the number of regular cocaine users at about 5,800,000. Total U.S. consumption of cocaine appears to have increased 20 to 30 percent from 1982 to 1986. Some researchers believe that the number of users may not be growing as much as the incidence of very heavy usage. In addition, the 1985 University of Michigan survey of high school students states that cocaine use by high school seniors was at an all time high (17 percent have tried cocaine) and that this would indicate increased use among that group in the future. Highlights of the 1985 Household Survey are appended to this report.

transport are also used. Cocaine is smuggled across all three coasts and the Mexican border, with about half the traffic carried in private aircraft and a large share of the remainder in private vessels. The amount of cocaine smuggled through ports of entry appears to be increasing. The heroin produced in Southeast and Southwest Asia is primarily carried by airline passengers through ports of entry or hidden in cargo or mail. An increasing amount of Mexican heroin enters across the land border. Smugglers show great ingenuity in devising methods of entry. When interdiction efforts restrict a particular mode of transport or route, drug traffickers quickly shift to alternatives. As a result, the Nation's long and highly permeable borders are being assaulted by an illegal traffic that uses all conceivable means of transport and concealment.

The agencies with primary responsibility for drug interdiction are the Customs Service and the Coast Guard. The Customs Service is charged with combating smuggling by private aircraft, by private vessels in near-shore waters, and by all modes at ports of entry. The Coast Guard shares responsibility with Customs for interdiction of seaborne drug traffic near shore and conducts patrols along the entire U.S. coastline and in the open ocean, focusing on the Gulf of Mexico and the Caribbean Sea. Along the Mexican border between ports of entry, the Border Patrol of the Immigration and Naturalization Service exercises enforcement effort as an adjunct to its primary mission of preventing illegal immigration.

These front-line agencies, supported by numerous other Federal agencies, have seized increasing quantities of drugs over the past 5 years. In fiscal year 1986, almost $800 million was expended by the Federal Government in this effort. Despite these efforts only a small percentage of drugs are being seized and the flow of drugs into this country has not yet been stemmed. (Seizure rates vary according to the particular drug, the season of the year, locale, and mode of transport.)

The Anti-Drug Abuse Act of 1986 (Public Law 99-570) affirms the role of interdiction as an important element in drug law enforcement. The act authorizes a substantial increase in funding for interdiction resources and personnel and greater use of military assets. It also sets the stage for resolving some of the fragmentation in organization and responsibilities for drug interdiction (e.g., between Coast Guard and Customs). It establishes mechanisms for allocating new military equipment and the requirement for legislative proposals from the President by mid-1987 to reorganize executive branch efforts to combat drug trafficking and abuse.

The goal of the Nation's overall anti-drug abuse program is to reduce the number of users and prevent others from becoming users. The national strategy includes many elements of both supply and demand reduction. Interdiction is only one element of supply reduction, which also includes investigation and prosecution, and international narcotics control. While many debate the relative merits of each of these elements, most agree that some level of effort in each is necessary.

Central to the success of future drug interdiction efforts are the technologies employed to detect, intercept, and capture smugglers. This study investigates the availability, use, and performance of the technologies now used for this and others that could contribute to the Nation's effort to prevent illegal drug traffic. Understanding the present contribution and potential improvement of these technologies involves not only examination of the technologies themselves but also the organizations that use these systems and the enforcement strategies they employ.

Photo credit: Border Patrol

The Border Patrol has recently been given authority to perform drug interdiction along the 2,000-mile Mexican border but law enforcement coverage is sparse.

Key Findings

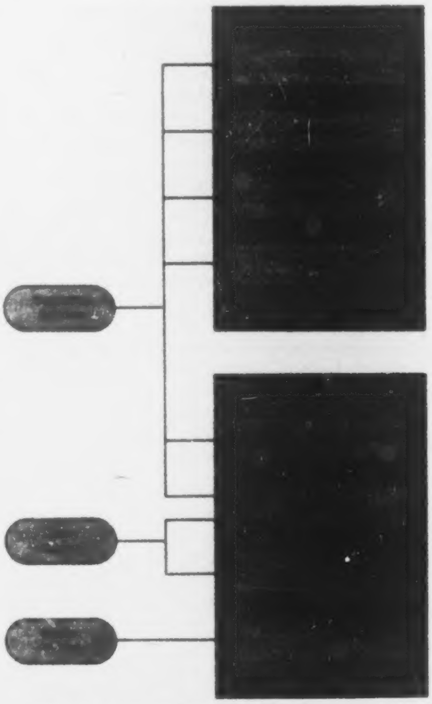
1. Despite increasing Federal expenditures for interdiction, illegal drug imports appear to be increasing. **There is no clear correlation between the level of expenditures or effort devoted to interdiction and the long-term availability of illegally imported drugs in the domestic market**. However, given the profitability of drug smuggling, a worldwide glut of drugs, and the view that the United States is the favored market for drugs, interdiction alone will probably never result in more than a short-term or relatively small reduction in drug availability.

2. OTA found the Federal agencies charged with the responsibility of drug interdiction to be staffed by dedicated and vigorous personnel who demonstrate courage and imagination in carrying out their responsibilities. For the most part, however, they have had to operate with very limited technological resources. **The size, scope, and diversity of the smuggling challenge is enormous compared to the human and equipment resources that front-line enforcement agencies can bring to bear.**

3. **Data on drug smuggling, the trafficking system, and interdiction activities are inadequate for effective planning and management**. Such data are needed to make informed selection of best strategies, to allocate enforcement resources, and to guide the design and management of interdiction programs. Measures of effectiveness for interdiction are difficult to define precisely. The numbers and quantities of drug seizures are difficult to interpret without good knowledge about smuggling attempts. Often, intelligence reports provide the best information on the effect of interdiction efforts on smuggling activity.

4. **Responsibilities of the Federal drug interdiction agencies are fragmented and overlapping**. The lack of a suitable institutional framework is a major impediment to the adoption and effective use of technologies, particularly command and control systems that could offer significant benefits. With the exception of special intensive operations, problems with interagency coordination and cooperation occur and no central authority addresses important strategic questions on priorities and resource allocation.

Roles of Drug Interdiction Agencies



SOURCE: Office of Technology Assessment, 1987.

Photo credit: U.S. Customs Service

5. Lack of an overall direction that would establish a comprehensive approach to planning and operations, limits the effectiveness of interdiction programs. Improved direction could enable:
   - —enforcement resources to be allocated to the highest priority problems;
   - —the various agencies to design and carry out more effective coordinated interdiction strategies; and
   - —the effectiveness of interdiction programs to be evaluated.
6. **The value of intelligence is very high for all aspects of drug interdiction**. In particular, good tactical intelligence can mean a large increase in ability to identify smuggling attempts. In certain areas, intelligence gathering is limited by inadequate resources and an ineffective network. Needed information cannot be gathered and delivered to the users in a timely fashion. Classified intelligence, even if valuable to interdiction efforts, is not often or easily used because of concerns about revealing sources and methods during court proceedings.
7. Over the past 2 years many new technologies, ranging from remote sensors to pursuit aircraft and patrol boats, have been introduced into Federal drug interdiction programs. These technologies have, for the most part, enhanced Federal capabilities. However, the technologies are just now becoming operational and evaluations of their overall effectiveness cannot be made without more experience and a directed effort to collect relevant data for evaluation.
8. **No single technology has been identified that by its addition would solve the Nation's overall drug interdiction problem**. But there are many opportunities for individual technologies to make incremental contributions to specific Federal interdiction efforts. Realizing these opportunities may require development of new technologies or procurement of increased numbers of existing technologies. However, most technological improvements, by themselves, may have only a temporary benefit because, based on the record, the drug traffickers will take rapid and usually successful actions to neutralize the effectiveness of new interdiction techniques.
9. **There is a serious lack of support for research, development, test, and evaulation** of new or transferred technologies within all of the drug interdiction agencies. Opportunities exist within other Federal agencies (especially the national laboratories and Department of Defense (DOD) laboratories) to provide some of the needed capabilities.

Goals and Options

Even though goals for the national drug interdiction program are seldom stated explicitly, it appears that three major objectives make up the implicit working goals of all of the agencies involved. These are:

1. to constantly harass and deter smuggling attempts by significant modes and at key locations and to work toward disrupting the trafficking networks, seizing as many drugs as possible, and making arrests of the drug traffickers;
2. to force the most vulnerable drug trafficking organizations out of business; and
3. to demonstrate a national resolve to curtail the drug abuse problem.

Photo credit: U.S. Customs Service

Customs agents at ports often seize illegal drugs concealed in machinery parts, as shown here, or in a myriad of other seemingly legitimate cargo shipments.

While these goals do not lead to specific measures of effectiveness, it may be useful to consider how well the technologies, agencies, and programs are directed toward them.

Operationally, the above goals have been used by each interdiction agency to develop strategies that are reasonably consistent with each other. OTA's investigation has concluded that at least three elements are vital to such strategies:

1. to apply constant pressure on drug traffickers operating wherever intelligence or experience indicates that significant activity takes place;
2. to constantly monitor trafficking patterns and smuggling attempts to direct interdiction pressure; and
3. to conduct limited duration special operations that cause exceptional problems, costs, or risks for the traffickers.

OTA has found that the front-line interdiction agencies, in general, use these strategies implicitly, if not explicitly, in their day-to-day operations. And, these strategies can fulfill the national goals. For example, constant pressure fulfills the general harassment goal; constant monitoring can direct that pressure to maximize seizures and arrests; special operations can force out the vulnerable organizations and also produce quick successes that contribute to demonstrating national resolve.

Congress passed the Anti-Drug Abuse Act of 1986 (Public Law 99-570) in October 1986. Several provisions of the act are directed at enhancing Federal interdiction efforts conducted by the Drug Enforcement Administration (DEA), the Coast Guard, and the Customs Service as well as those supported by DOD and other agencies. The interdiction agencies, therefore, can benefit from a unique opportunity to allocate new resources and redirect existing ones to meet the objectives of the bill. Other provisions provide the opportunity to reallocate agency responsibilities and provide direction. For example, the Coast Guard may assume a greater role in the air interdiction mission. The National Drug Enforcement Policy Board is charged with making decisions about such changes in the missions.

This OTA assessment of interdiction technologies suggests a range of options that could be employed by the Federal agencies in an effort to improve the effectiveness of future operations, increase success within their operational strategies, and make more efficient use of resources. These options are listed below:

- The principal interdiction agencies, under the direction of the National Drug Enforcement Policy Board, the National Narcotics Border Interdiction System, or another central authority, could prepare a coordinated long-range plan for deployment of interdiction resources and technologies to apply pressure on major smuggling modes at ports of entry and air, marine, and land borders. This would entail matching resources to the present threat and developing a system to assure that consistent monitoring of trafficking is fed into the planning process. The plan could include networks for intelligence and surveillance data as well as designated commands for specific arenas. OTA has noted throughout its report deficiencies in information and command networks and has stressed centralized planning.
- Establish a system and standards common to all agencies which would be used to evaluate deterrent capabilities and the effectiveness of technologies and techniques used for interdiction. The system would need to include specified data to be collected, standards for measuring detection and apprehension rates, consistent costing methods, and procedures for using the most appropriate data to evaluate systems or operations.
- For the port of entry interdiction problem, the Customs Service or another agency could establish a substantial R&D program to develop more effective detection technologies. OTA has found that there is some promise of technological advancement in this area but R&D efforts are too small to conduct needed work. Existing National laboratories could provide the technical base for a major R&D effort. OTA has made suggestions for specific program elements in later sections of this report.

- For illegal border entry interdiction (air, marine, and land), a cooperative agency group could design a border surveillance-detection network for smuggler traffic. OTA has found that sufficient technologies (mostly military) are available to address this problem, but that a design for deployment is lacking. An OTA suggested approach is contained in other sections of this report.

FINDINGS

Major findings fall into four general categories: inadequate direction; data deficiencies; coordination problems; and technological limitations. These categories are described below.

Inadequate Direction

The Nation's drug interdiction efforts suffer from a lack of clear direction.

Such direction is necessary for assuring that available resources are devoted to the highest priority problems. It is also necessary if the various agencies are to design and carry out effective, coordinated interdiction strategies.

Individual enforcement agencies have generally chosen those interdiction goals that they are best organized and equipped to accomplish. For example, route denial is a goal of the Coast Guard, but no attempt is made to evaluate the ease or difficulty of a smuggler changing routes or modes if one of many is closed. More attention to priorities is essential when faced with a situation where the problems are much greater than the resources available.

A goal of interdiction is a reduction in illegal traffic—i.e., the total quantity of illegal drugs that are imported. While this goal appears simple, it is considered, by most, impossible to measure accurately. Which actions would best lead toward that goal is also a matter of considerable debate. Some believe that since international narcotics traffickers are immensely wealthy and powerful criminal organizations, the law enforcement effort should be focused on apprehending the leaders, breaking up the groups, and seizing their assets. In this way, a sizable reduction in smuggling would logically result. Others believe that seizing drugs would be more effective since this would force prices up and reduce demand. This debate about cause and effect has left individual agencies to sometimes stress individual goals. This highlights the need for more central direction.

Measures of effectiveness for interdiction are difficult, if not impossible, to quantify. One commonly stated interdiction measurement has been total drug seizures or seizure rates. While seizure quantities can be easily collected, they are difficult to interpret. No seizures may indicate great success—that drugs are no longer being smuggled through a particular location. Or, a lack of seizures may indicate that smugglers are circumventing interdiction efforts. In fact, the limited seizure and trafficking data available indicate seizures increasing as smuggling increases. Agencies have not attempted to rou-

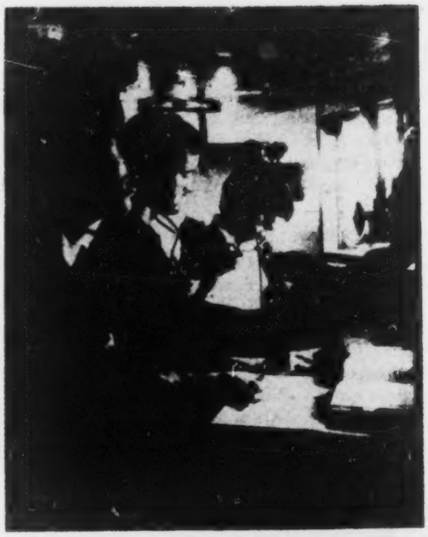


Photo credit: U.S. Coast Guard

Photo credit: Border Patrol

tinely collect or analyze information that would help to evaluate interdiction strategies or technologies.

Data Deficiencies

Data on drug smuggling, the trafficking system, and interdiction programs are inadequate to make informed selection of best strategies, optimum allocation of enforcement resources, and technical design and management decisions for the future.

Trafficking Data

Present estimates of the quantity of drugs coming into the United States and their means of transport are based on conflicting data. Prior year estimates of total quantities being smuggled are made annually by the National Narcotics Intelligence Consumers Committee (NNICC) and are derived from estimates of source country production, analyses of data on seizures accumulated on a year-by-year basis, and analyses of drug consumption indicators. The U.S. Customs Service makes 1-year projections of the drug smuggling threat. The estimates from NNICC (which consists of 11 Federal agencies) and the Customs estimate rarely agree and they do not attempt to make year-to-year or retrospective analyses.

Seizure Data

Data on drug seizures are collected and compiled in a variety of ways by each agency involved. The El Paso Intelligence Center (EPIC) is the repository of seizure data from all sources but, because of agency differences over credit for seizures, EPIC never identifies the agency responsible for seizures. OTA was unable to resolve a number of conflicts and contradictions between seizure data provided by various agencies. Some of the reasons for contradictory data appear to be double-counting and differing standards of estimating. The double-counting problem may have been eliminated by a new system initiated in October 1986. However the data available cannot be reliably attributed to specific interdiction efforts by individual programs or agencies.

Price Data

Data on drug prices are collected by the Drug Enforcement Administration (DEA) and appear to be consistent and reliable. OTA could not find any agency making analytical use of price data to provide indicators of the effect of law enforcement efforts. In the past, price/purity data were used as goals and measurement of success. While such a measurement is vague, it has at least as much value as seizures.

Sampling Techniques

Neither Coast Guard nor Customs Service has made systematic use of statistical sampling techniques to project the levels of drug trafficking and evaluate the effectiveness of interdiction technologies and strategies. No data are collected with that end use in mind.

Data Collection

Reliable and consistent data can contribute both to effective resource allocation and to the agencies' operational interdiction strategies. To be most useful, the appropriate information must be collected in a form consistent across agencies and time, and subjected to consistent, continuing analysis. One example of the data problem can be found at ports where customs inspectors report drug seizures on a common form. At present, this information has little use except totalling the number and quantity of seizures. The forms do not include accessible information on why or how the inspection leading to seizure occurred. Possible reasons include: prior intelligence, the courier or cargo fit a suspect profile, or the inspection was random. Analysis of such information could indicate areas of high payoff.

Coordination Problems

Fragmented command, control, and jurisdictional responsibilities characterize the Federal drug interdiction enterprise and are a major impediment to the adoption of existing and new technologies for drug interdiction.

Headquarters Coordination

Problems with interagency coordination and cooperation exist at every level. At the Washington level, coordination is facilitated by such groups as the Drug Enforcement Policy Board chaired by the Attorney General and the National Narcotics Border Interdiction System (NNBIS) chaired by the

Vice President. Coordination and cooperation occur through meetings and the development of consensus. Decisionmaking, however, is usually slow. Very little comprehensive planning is done—e.g., setting priorities among agencies or development of strategies needed for total interdiction system designs.

Regional Coordination

Regional NNBIS groups have been established in seven locations. They include representatives of the regional offices of drug enforcement agencies. The degree of cooperation and coordination through NNBIS is good in some regions and poor in others.

Operational Coordination

At the operational level there are a diversity of mechanisms used to facilitate cooperation and coordination among drug enforcement agencies. Successful cooperation and coordination generally rests on specific arrangements made by the officials in charge of regional enforcement units. Impediments to cooperation and coordination at the regional level are several. Each agency has its own structure, goals, operating style, and communication system. For example, the Coast Guard and the Marine Branch of the Customs Service use different communication frequencies, so operational units cannot communicate directly with each other. Even in the case of the marine operational system, the Blue Lightning Operations Center in Miami, conceptually a joint Customs-Coast Guard command and control center, there is not yet a capacity to communicate directly with Coast Guard vessels.

Multi-Mission Agencies

The multiple and sometimes conflicting operational goals of agencies impede cooperation and coordination. The agencies responsible for interdiction have other important responsibilities. The Drug Enforcement Administration emphasizes eradication, investigation, arrest, and conviction of key drug smugglers. DEA also has a major role in providing intelligence for interdiction.

Shared Jurisdiction

Because both Coast Guard and Customs share responsibility for marine interdiction within the 12-mile zone, very close cooperation is necessary for efficient operation. When this cooperation and coordination is lacking, present interdiction efforts suffer.

Technology Operations

With the introduction of new long-range surveillance systems that are capable of locating both air and sea potential targets, opportunities exist to centralize the operation of these systems in one agency and the need for much improved coordination and cooperation becomes even greater.

Technological Limitations

No single existing or potential technology has been identified that would, by its simple addition, solve the Nation's overall drug interdiction problem. Many opportunities exist for technologies to make incremental contributions to the Nation's interdiction program. These opportunities range from improvement in technical performance, to procurement of increased numbers of existing technologies, to more effective use of technologies, to development of new, advanced systems.

Whenever technological improvements result in more effective interdiction, the drug traffickers will take rapid and, based on their record, effective actions to neutralize that effectiveness. These actions can range from changing smuggling routes and/or modes of transport to the use of countermeasures.

The contribution to drug interdiction from all existing and proposed technologies is limited by three factors: 1) inherent technical limitations (e.g. range, discrimination, speed); 2) the personnel, training, and financial resources to utilize and maintain the technologies in an optimal way; and 3) the strategies and operational procedures which govern the use of the technology.

No Single Technology Solution

Single technologies may be very effective in stopping smuggler's from using one mode of transport for a particular drug, but smugglers will likely respond by shifting to another transport mode. For example, a nuclear magnetic resonance (NMR) device developed by Customs can detect certain drugs within small packages directly. It may be used to search all letter mail for smuggling cocaine and heroin. But there remain many ways to smuggle these drugs that are not easily detected with current or emerging technologies. As another example, installing an ''acoustic fence'' at marine choke points could help prevent the use of such routes by marijuana smugglers, but without other measures to place pressure on other routes or modes of transport, the availability of imported marijuana is not likely to change over the long term. Some individual technologies may be useful in sorting potential smuggling targets, but may have a high false alarm rate. Use of additional sensors in a multiple screening system could potentially help reduce the false alarms to a manageable level.

Limited R&D

None of the drug interdiction agencies has significant financial, organizational, or personnel resources devoted specificially to developing drug interdiction technologies. Without a comprehensive development, test, and evaluation program for major technologies, future performance will be questionable and resources may be wasted.

Needed Test and Evaluation

Many recently acquired technologies devoted to border interdiction by the drug law enforcement agencies are not yet deployed operationally and have not been integrated into an effective, comprehensive system designed to counter the formidable threat posed by international narcotics traffickers. These new technologies require considerable operational evaluations, operator training, and an overall system design before their potential can be realized. Most new systems have not had sufficient field testing to make judgments about their effectiveness. Lacking a uniform and comprehensive approach for the total Federal effort, each new sensor, platform, or other technology will have only limited future impact.

Limited Technologies to Date

Most of the field operators of the agencies involved in drug interdiction to date have had limited technologies beyond basic vehicles, sensors, and simple inspection tools for carrying out the very labor-intensive tasks required. Success in drug interdiction in recent years has usually resulted from hard work rather than technological advances.

Many Technologies Available for Enhancing Specific Capabilities

There are a number of technologies and technological systems that are not now in routine/general use and have the potential of enhancing Federal drug interdiction efforts. Among these are: modern airborne radar systems for both air and sea surveillance (e.g., APS-137, APS-138); tethered Aerostat (balloon) borne radars, both land- and ship-based for both air and surface surveillance; integrated airborne sensor systems such as Coast Guard's AIREYE—including radar, infrared and laser enhanced TV; over-the-horizon radar systems that could provide thousands of miles of coverage from one land-based station; remotely piloted vehicles with advanced infrared and optical sensors for surveillance; acoustic sensing systems for ship detection; long-line, land border, intrusion sensors using seismic or other techniques under development; high-performance vehicles (air, land, and sea) for tracking and apprehension of suspected smugglers; improved X-ray and other nondestructive devices for inspection of cargo and baggage at ports; and advanced vapor analysis systems for finding drugs carried by persons or in baggage and cargo.

The list of specific technological improvements is so long and so interconnected that no single or even small group of equipment can be adopted effectively without a total system design. For a surveillance and detection technology to be effective, both a command and control network strategy for apprehension is needed first. For a baggage inspection device to be effective a system for selecting and handling the huge flow of goods to be inspected is needed. A fixed system directed at one aspect of the drug trafficking threat will not be effective for very long when the smuggler has the option of rapidly switching tactics. Federal decisions on basic strategies and comprehensive system designs have not been made to the extent necessary for a cost-effective and appropriate selection of new technologies for future drug wars.

Opportunities for Enhanced Surveillance

When considering the problem of smuggling across borders outside of official ports of entry, the greatest opportunity for enhanced technological capabilities is in the area of surveillance of aircraft, vessels and other vehicles.

- Radar coverage of the Nation's Southern border that is capable of detecting aircraft used for smuggling is very limited. First, most general surveillance radar are not capable of detecting aircraft flying at low altitudes and slow speeds. Smugglers fly at low altitudes and slow speeds precisely to take advantage of this limited radar coverage. Second, some areas of the Southern border have no radar coverage. Third, in those limited areas where appropriate radar capabilities exist, surveillance is not continuous. Intermittent surveillance results from: limited personnel to operate ground-based radar, the relatively short endurance of aircraft with surveillance radar, and the fact that fixed aerostat-mounted radars can be easily seen and avoided by smuggler aircraft.
- Desired air and surface surveillance capabilities would have: 1) broad area coverage, 2) long-distance detection (maximize lead time for mobilizing pursuit and capture forces), 3) maximum capability for discrimination among aircraft or vessels (size, speed, etc.), and 4) enhanced short-range sensors for inspection of vessels.
- Among the currently available surveillance systems, aerostat-mounted radar is particularly attractive for filling low-altitude gaps at borders and for extending sea surveillance coverage offshore. Advanced airborne radars are attractive for providing long-range coverage and flexibility of deployment. Over the longer term, comprehensive surveillance coverage of the Nation's Southern border may be available from over-the-horizon radar and a zone defense approach to the network design.
- Surveillance capability provided by Air Force and Navy airplanes and Navy vessels has the potential for contributing to the effectiveness of drug interdiction. However, military equipment and operators are not always suited to the drug enforcement mission; equipment modifications and personnel training is often necessary. DOD surveillance of potential smugglers is necessarily at a much lower priority than is national security.

Pursuit and Capture Technologies

Effective pursuit and capture of suspected drug smugglers, whether in aircraft or vessels, is significantly improved with good intelligence, identification, and target selection information. Pursuit and capture is always a time-constrained activity. Early information, which allows for longer periods to mobilize pursuit and capture forces, and good information on the routes and, ideally, the destination of smuggling aircraft and vessels, is invaluable to effective pursuit and capture. Technologies are presently available that meet most of the requirements each of the interdiction agencies have identified as necessary to carry out pursuit and capture functions. The primary technological constraint on pursuit and capture effectiveness is associated with the limited number of available platforms or vehicles with appropriate capabilities.

- The Customs Service has defined the desired pursuit aircraft as one with an endurance of 8 hours, detection equipment (radar and infrared sensors) that allows smuggling aircraft to be pursued without being aware of it, and sufficient capacity to carry a bust team. Customs has found the Black Hawk helicopter to be very suitable for most capture missions.
- The Customs' Marine Branch generally relies on pursuit and capture technologies that involve minimally two boats: one with radar capabilities that are used to direct the other—a high-speed interceptor—to the target. The Customs' Marine Branch has sizable numbers of these vessels only in south Florida and even here is severely hampered by a lack of trained operators.
- Coast Guard technologies are designed to support that organization's multiple missions. The primary limitation of Coast Guard technical capabilities for pursuit and capture is available vessels. The vessels used for pursuit and capture are mostly the same vessels used for surveillance. The Navy (especially the hydrofoil fleet) has provided significant support to the Coast Guard's pursuit and capture mission. New Coast Guard patrol boats with advanced capabilities are just now entering the fleet.

Command and Control

Command and control capabilities and the technologies that support those capabilities are to a greater or lesser extent a problem for all enforcement agencies. Command and control technologies that provide a capability for coordinated drug interdiction activities among the various agencies are seriously deficient and most believe that they need to be improved before the potential for either surveillance or pursuit and capture technologies can be realized.

- Some continuing deficiencies pervade the area of command and control. First, all enforcement agencies are deficient in secure voice communication systems and the agencies have yet to devise an adequate system using compatible frequencies. Second, no single command strategy has been devised that would make a comprehensive system design practical. Third, the centers that are in use are deficient in sensor capability and have yet to evaluate their operational effectiveness to determine changes needed for optimum future designs.

Technological Needs at Ports-of-Entry

The technology used to support drug interdiction at ports of entry is limited in its availability and, in some categories, its capability. Port detection technologies divide into two categories: 1) those that provide capability for managing data; and 2) those that support detection of drugs on persons, in baggage, in cargo, in mail, or concealed in carriers (i.e., land vehicles, aircraft, or vessels).

- Data management and analysis technologies are in limited use at ports of entry. These technologies have the capability of providing information on both individuals and cargo useful to drug interdiction. Customs is making increasing use of data management and analysis technologies. Resources are the primary limitation.
- Most of the technologies both in use and being investigated to support the direct detection of drugs have serious technical limitations. One category identifies anomalies where drugs may be hidden. Another category detects either by sensing chemicals associated with drugs or directly sensing the drugs. Many technologies are considered unsatisfactory because they have high false alarm rates. Limited personnel resources cause Customs to reject technologies with false alarm rates that are higher than the ability of the inspectors to conduct detailed manual searches without disrupting movement of port traffic.
- Resources available to Customs are insufficient to allow systematic investigation of the potential for technical aids to enhance port inspection. Major deficiencies include:
  - —Basic information on the physical and chemical characteristics of drugs is not available to permit the evaluation of detection technologies used for other substances.
  - —Inspection resources are often not available for a comprehensive evaluation of new detection technology effectiveness.
  - —Efforts have not addressed multiple sensor systems to minimize false alarms. They have focused primarily on the development of single technologies.
  - —Limited training of inspectors has resulted in some available equipment not being utilized. Newly developed sophisticated inspection equipment must be designed to be user-friendly.
- Technology for detection of drugs at ports of entry could probably be advanced with a consistent and long-range R&D program. Such a program would need to include adequate staff; continuing programs to characterize fundamental properties of drugs, technology transfer, and equipment loans; mechanisms for getting information on how drugs are smuggled through ports of entry, stimulating fresh ideas or R&D approaches; and adequate facilities and resources to test and refine new systems.

Land Border Technologies

A range of technologies are in use and being investigated by the Border Patrol to support the identification of illegal intrusions across the Mexican border. Drug interdiction is made enormously more difficult because of the large numbers of illegal aliens continuously crossing the border. The sensors in use generally perform well but apprehension of suspects is very labor-intensive and no technologies will alleviate the basic need for more personnel to pursue and capture.

- There are currently available technologies for land border interdiction that could increase agency capabilities. Technologies and systems of interest include ground radar, remotely piloted vehicles (RPVs), aerostats and airships, buried line sensors, and infrared improvements.

V. OUTSIDE STUDIES

CRIME CONTROL
BY THE
NATIONAL GOVERNMENT

BY

hester

Arthur C. Millspaugh

WASHINGTON, D.C.
THE BROOKINGS INSTITUTION
1937
(1473)

CHAPTER IX

THE BORDER PATROLS

In the federal law-enforcement organization, patrolling, like Caesar's Gaul, is divided into three parts. Our marine outpost is the Coast Guard; while the national gateways are watched on land by the Customs Patrol and the Immigration Border Patrol.

SET-UPS

The two land patrols are in different departments. The Customs Patrol, formerly scattered among the forty-eight collection districts, is now grouped in only four large districts under the central direction of the Customs Agency Service, which is a subdivision of the Bureau of Customs of the Treasury Department.[1] The Customs Agency Service has three units: (1) the Administrative Unit, which handles personnel, financial, and administrative matters; (2) the Investigative Unit, which supervises field offices in the United States and foreign countries and includes the Port Examination Commission and the Customs Information Exchange; and (3) the Enforcement Unit, with a chief, assistants, and clerical staff in Washington and the Customs Patrol in the field.

[1] "You see, for example, Maine is one customs district. We had a separate patrol in Maine. Vermont is another customs district, and we had a separate patrol there. New York is another one, and we had a patrol there. Likewise, we had one in Buffalo and another one in Detroit. They were all separate and distinct. Now we have consolidated all of those into one unit, one district, and have the headquarters at Buffalo, the idea being, of course, that we would have more mobility in transferring the men around and also greater use of the equipment." 75 Cong. 1 sess., *Treasury Department Appropriation Bill for 1938*, Hearings before H. Committee on Appropriations, p. 260.

The Immigration Border Patrol is under the Commissioner of Immigration and Naturalization, who is directly responsible to the Secretary of Labor.

FUNCTIONS AND ACTIVITIES

Neither of the land patrols is a general crime-control or a general service agency. Each is charged with specialized auxiliary law enforcement. In this respect, both are different, on the whole, from the Bureau of Investigation and the Coast Guard. Generally speaking, both operate in the same areas; but one is primarily concerned with the movement of commodities; the other, with the movement of human beings.

Incidental to their primary function, Customs Patrol inspectors, as they are officially designated, guard and watch the highways adjacent to the international boundaries. This they do in automobiles, snowmobiles, and snowcycles, on horseback, and on foot. In some regions, they operate in speedboats and outboards. They get in touch with "informers" to obtain information regarding smuggling operations. They examine the ground along the boundary for tracks of persons, animals, and vehicles. They check the brands of legally imported livestock, livestock at dipping vats, railroad shipping points, and stock pens, and also animals that are returned to the United States by customs officers of Canada or Mexico. Members of the Patrol pursue and detain automobiles that fail to stop for examination by the customs inspectors at the points of entry. When smuggled goods are found, they are seized by the Patrol. This agency is also charged with preventing the exportation of articles from the United States without the filing of proper export declarations. Members of the force board and search suspected craft in bays and inlets, and keep a watch over vessels thought to be carrying contraband merchandise. The Patrol exercises surveillance over landing fields in order to detect airplanes entering or leaving the country illegally.

The Immigration Border Patrol operates in a somewhat similar manner for a quite different purpose. It patrols, guards, and searches highways, trails, rivers, bridges, ferries, wharves, railroad and ship yards, and open country along the international boundaries and certain parts of the coasts. Members of the Patrol use every appropriate means of locomotion and transport. They stop and inspect vessels, trains, automobiles, and other conveyances. They halt and question persons who are on foot or on horseback. They arrest aliens and alien smugglers, and convey persons under arrest to examining officers or places of detention. They conduct investigations concerning the unlawful entry or smuggling of aliens and concerning legality of residence, gather evidence and prepare reports for use in deportation proceedings and prosecutions, and make character investigations in naturalization cases.

Incidentally, both patrols render first-aid to persons injured or in distress; and each performs various other duties which need not be detailed here.

OVERLAPPING, DUPLICATION, RELATIONSHIPS, AND CO-OPERATION

All three federal patrols—the Coast Guard, the Customs Patrol, and the Immigration Border Patrol—are, in a measure, overlapping forces. Functionally, the Coast Guard markedly overlaps each of the land patrols. Geographically, the land patrols overlap each other; that is, their operations take place side by side in much the same territory. Thus, we find among the three agencies two different and significant types of relationships.

If we discover in the three forces, or in any two of them, needless duplication, ineffectiveness, or waste, and if these conditions are due to the separateness of the patrols, on what basis shall we attempt to reorganize? Shall we adopt geography or function as our rule-of-thumb? Or may we use both of these criteria? Would it be wise to consolidate two, or all three of the patrols? Or may efficiency be achieved merely by a reallocation of activities? Or by a better co-ordination of operations?

In probing this problem, investigations in the past have tended to emphasize the similarities, rather than the differences, between the smuggling of goods and the illegal entry of aliens. To cope with either type of irregularity, the government must have inspectors stationed at points of entry; and, when persons—or persons and commodities—are crossing the boundary between points of entry, agents of the government must, whenever possible, stop, question, and inspect. In the smuggling either of goods or of persons, the crime has its inception in a foreign country. To cope with either type of law-breaking, therefore, it is desirable in as many cases as possible to do detective work and set up preventives at the places of origin. Accordingly, both the Customs Agency Service and the Immigration and Naturalization Service have agents working in foreign countries.

Disregarding, for the moment, the apparent duplication of inspection officials at points of entry and of investigative officials in foreign countries, let us now examine more particularly the operations of the patrolmen along the border.

On land, commodities in any considerable number or quantity usually follow the traveled routes. In most cases, when goods are smuggled, they soon lose their identity in the great mass of similar commodities within the country. Generally speaking, if they are not detected at or near the boundary at the moment of entrance, their detection anywhere else or at a later date is well-nigh impossible.

On the other hand, an alien or a group of aliens is not bound to follow a road or trail. A smuggled or smuggling person does not readily lose his identity. He may die, but he is not consumed. And he is not detectable merely by uncovering and inspection. The process of detection in his case always involves questioning; and it may require an intricate tracing of his movements over a considerable period of time, a comparison of photographs and fingerprints, and a searching of documents such as certificates of birth, of registry, or of naturalization.

Consequently, the Immigration Border Patrol is accustomed, more than its companion organization, to work along the less frequented routes and even away from roads and trails altogether. Members of the Immigration Border Patrol, moreover, work farther back from the boundary, sometimes a hundred miles or so. The difference between goods and persons helps to explain also why the Immigration and Naturalization Service has no separate "intelligence unit," like the Coast Guard, and the Customs Agency Service.[3] Because of these and other facts, it appears that the Immigration Border Patrol must be more flexible and more mobile than the Customs Patrol.

Operating side by side, jealousies have appeared and conflicts have occasionally occurred between members of the two patrols; but jealousies and conflicts have not apparently been serious.

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[3] The Immigration and Naturalization Service, however, has had for some time a special prosecution staff and a special investigating staff working on frauds at New York City. There are also special investigators working in other places.

On the whole, there is considerable informal co-ordination between the two forces. It is true that in fifteen places along the border the Immigration Border Patrol has a field office and the Customs Patrol has none; but both patrols have either district headquarters or sub-offices in Buffalo, Detroit, El Paso, Havre, International Falls, Jacksonville, Laredo, Miami, New Orleans, Pembina, Seattle, and Tampa. These places include the most important operating centers.

The field officers of the Immigration and Naturalization Service have long been under instructions to aid in the enforcement of federal laws against the introduction of contraband; and it is said that such co-operation with the Customs Service is well established and practically continuous. Members of the Border Patrol apprehend and deliver to the Service persons who have violated the customs laws. When information regarding the smuggling of commodities is obtained by the Border Patrol, it is turned over to appropriate customs officials. Such information, in a number of instances, seems to have resulted in the seizure of substantial quantities of smuggled goods; and considerable quantities of such goods have been seized at various points by the Immigration Border Patrol itself and turned over to the Customs Service. Automobiles and other conveyances have been taken by the Patrol and delivered to collectors of customs or their deputies. An arrangement is in effect at Detroit between the Immigration Border Patrol and the Customs Patrol to avoid duplication and overlapping of patrol work by boat on the Detroit River. At St. Paul, the two patrols have entered into a co-operative agreement. In one district, at least, Immigration Border Patrol units are given a written assignment as they start on each tour of duty; and these schedules are available to Customs Patrol units, if they wish to use them, to avoid duplication.

The policy of the Customs Patrol relative to co-operation is stated in the *Manual of Instructions for the Guidance and Use of Customs Patrol Inspectors* (May 28, 1932) as follows:

> Border Patrol officers should, so far as possible, co-operate with officers of other branches of the government service and with state and local officers.
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> However, Border Patrol officers, in their official capacity are not authorized to make arrests in other than customs cases. The same is true of violations of federal criminal statutes involving other than the customs laws. Such action, if accomplished, would be in their capacity as private citizens and upon their own responsibility. It is suggested, therefore, in order to obviate situations whereby Border Patrol officers may be subjected to civil suits for damages, that action by them in such instances be limited to a close co-operation with the local, state, or other federal officers, who are by virtue of their official capacity and authority, authorized to apprehend offenders.
>
> Whenever a Customs Patrol inspector apprehends any foreigner or alien entering, attempting to enter, or who appears to have recently entered the United States by rowboat, speedboat (or, in fact, by any boat other than an established ferry or steamship line), by automobile, by aircraft or by walking across the ice or over any land boundary, or in any other unusual manner, such foreigners or aliens should not be released until such aliens and their cases are presented to the nearest immigration officers on duty. If the alien is accompanied by an American citizen he likewise should be turned over to the immigration authorities.

Both patrols co-operate with other federal law-enforcement agencies. The Intelligence Unit and the Alcohol Tax Unit of the Bureau of Internal Revenue and the Bureau of Narcotics are the only ones not already discussed in previous chapters.[8]

For the Alcohol Tax Unit, the Customs Patrol has seized stills, distilling equipment and supplies, and non-tax-paid liquor; has loaned men, cars, and equipment to assist in seizures and arrests; and has given information regarding violations of the liquor laws. It is stated that in [illegible] the Patrol apprehended or assisted in the apprehension of about 106 offenders for the Alcohol Tax Unit.

It is the duty of the Bureau of Customs, under the provisions of the Narcotic Drugs Import and Export Act, to detect, prevent, and punish unlawful importation and exportation of narcotic drugs. It is also the duty of that Bureau to handle the importation of crude opium and coca leaves at the ports of entry, pursuant to a permit issued by the Commissioner of Narcotics; to arrange for the trans-shipment of any narcotic drugs or preparations arriving at a port of the United States from a foreign country destined to another foreign country; and to handle the exportation of narcotic drugs from the United States to a foreign country, pursuant to an export authorization issued by the Commissioner of Narcotics. In addition to these duties performed by the Bureau of Customs as a whole, assistance has been rendered by the Customs Patrol to the Bureau of Narcotics similar to that extended to the Alcohol Tax Unit.

It is estimated that 79 per cent of the cases handled by the Customs Patrol originate in the Patrol itself, 12 per cent are referred to it by other branches of the Customs Service, 4 per cent by the Immigration Border Patrol, one per cent by the Coast Guard, one-half of one per cent by the Bureau of Investigation, and none by the Secret Service.

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[8] For co-operation with agencies already discussed, see pp. 101, 103, 138, 156-58, 160-61.

The Immigration Border Patrol has recently seized and turned over to the Alcohol Tax Unit several loads of alcohol en route to Canada; and the Patrol has given the Alcohol Tax Unit information concerning the location of stills and of contraband liquor. Likewise, the Patrol has made seizures for the Bureau of Narcotics; and the narcotic district supervisors furnish to immigration officials information with respect to aliens charged with violation of the federal narcotic laws, for use in determining whether or not such alien violators are subject to deportation. The Border Patrol in the Los Angeles district has assisted the Bureau of Narcotics by fingerprinting and photographing persons arrested by narcotic agents.

Of the 12,406 persons apprehended during the fiscal year 1936 by the Immigration Border Patrol, 11,869 were held by immigration authorities; while 311 were delivered to Customs, 17 to the Alcohol Tax Unit, 16 to the Bureau of Investigation, 2 to the Army and Navy, one to the Bureau of Narcotics, and 190 to state and municipal officers. During the fiscal years 1925 to 1936 inclusive, the Patrol is reported to have arrested a total of 17,770 persons, other than violators of the immigration and Chinese exclusion laws. The offenses of these persons ranged from violation of the customs laws to robbery and murder.

A record of the number of aliens actually delivered to the Immigration Border Patrol by other enforcement agencies has been maintained only since September 1935. From then until the end of the fiscal year, 524 aliens were delivered to the Patrol—75 by the Customs Service, 71 by state and municipal authorities, and 378 by agencies not specified. No record is kept of the number of cases brought to the attention of the Immigration Border Patrol as distinguished from actual delivery of aliens. In some of the immigration and naturalization districts, inter-agency co-operation is more extensive, more cordial, and more fruitful than in others. Of course, co-operation is called for in some districts more than in others. It is interesting to note, for example, that in the Galveston district the Immigration Border Patrol received (or felt that it received) little or no co-operation from other federal law-enforcement agencies, except the Customs Patrol. On the other hand, in the El Paso district, 570 aliens were delivered to immigration officers by other services. Federal agencies delivered 115 and, of these, 110 were handed over by the Customs Service.

Beyond the field of law enforcement, strictly speaking, both patrols perform incidental and occasional services. For example, the Customs Patrol reports that during 1936 it assisted federal livestock inspectors in preventing violations of the livestock quarantine laws; the Forest Service, by reporting forest fires and assisting in locating monuments on the international boundary; and the Office of Indian Affairs, by helping to supervise livestock on Indian reservations.

Neither the Investigative nor the Enforcement Unit of the Customs Agency Service has extensive or significant relations with state or local officials. Neither unit is dependent on the co-operation of such officials, though state and local agencies have rendered assistance to and received assistance from the two units. The Immigration Border Patrol, at its request, has been placed on the mailing lists of many state and local agencies, receiving not only the more or less generally distributed lookout notices, but also requests for special action in the cases of wanted criminals. It is stated that these matters receive prompt attention, even to the extent in aggravated cases of special details in the interest of the requesting agency. Through this co-operative effort, various criminals have been apprehended by the Border Patrol for state and local agencies; and the latter assist the Patrol in like manner. Indeed, of the 570 aliens delivered to immigration officials in the El Paso district in 1936, no less than 455 were received from non-federal agencies. Of these, 297 came from municipal police, 94 from county sheriffs, 22 from county probation officers, and one from state police.

RELATIVITY AND TIE-UPS

As of June 30, 1936, the personnel of the Immigration Border Patrol numbered 916, and that of the Customs Patrol, 589. During the fiscal year 1936, the Immigration Border Patrol cost $1,807,518; the Customs Patrol, $1,581,323. The total civilian personnel of the Department of Labor on September 30, 1936 was 14,520. That of the Treasury Department on the same date was 72,910, five times the personnel of the Department of Labor. Relatively to its administrative environment, the Immigration Border Patrol is a big frog in a little pond, while the Customs Patrol is a little frog in a big pond.

Both the Bureau of Customs and the Immigration and Naturalization Service are predominantly field organizations. In the latter agency, 97 per cent of the employees are in the field.

The difficulty of dismembering an administrative agency depends on the cohesiveness of its parts. The Immigration and Naturalization Service and the Bureau of Customs are both cohesive organizations. From either agency, it would be difficult to pry loose its patrol force. Is the effort worth the cost?

The Immigration Border Patrol is at present interlocked with other branches of the Service and there are good reasons for such interlocking. Section 16 of the Immigration Act of February 5, 1917 provides:

> Said inspectors [immigrant inspectors] shall have power to administer oaths and to take and consider evidence touching the right of any alien to enter, re-enter, pass through, or reside in the United States, and, where such action may be necessary, to make a written record of such evidence; any person to whom such an oath has been administered, under the provisions of this act, who shall knowingly or willfully give false evidence or swear to any false statement in any way affecting or in relation to the right of any alien to admission, or readmission to, or to pass through, or to reside in the United States shall be deemed guilty of perjury and be punished as provided by Section 125 of the act approved March 4, 1909, entitled "An act to codify, revise, and amend the penal laws of the United States."

The immigrant inspectors, who are stationed at points of entry, act preliminarily in a quasi-judicial capacity; and [illegible] large majority of cases, obviously, their decisions are final. The immigration patrol inspector cannot himself make a decision in doubtful cases. He must refer the suspected person to an immigrant inspector. As the late Commissioner of Immigration and Naturalization expressed it:

> The two branches of the Service engaged in the enforcement of the immigration laws represent in their respective spheres a progressive sequence of interwoven actions which in the ultimate constitute a single duty of a single Service. The only real division is where the authority of the patrol inspector ends.
>
> The Immigration Border Patrol depends almost wholly upon what might be termed the Immigration Service Division, for supervision and guidance; relies wholly upon other units for combined statistics, accounting, and all matters involving the securing and maintaining of supplies, equipment, and such like. All prosecutions and legal actions resulting from its work are

handled by the officers of the Immigration Service Division, upon which it also relies for records concerning aliens who have been deported or refused admission to the United States. Unless the officers are made acquainted with rulings of the Department and court decisions bearing upon the immigration laws and keep abreast with immigration legislation, it cannot hope successfully to engage in the enforcement of immigration laws on our borders. Not infrequently, a force of immigrant and patrol inspectors is sent into isolated regions where the presence of immigrant inspectors is essential to carrying out the mission upon which engaged.[4]

Some light is thrown on the question of the proper location of the Immigration Border Patrol in a report made to the Secretary of Labor by Assistant Secretary of Labor White on April 28, 1933. In January 1932 the Patrol was partially separated from the Immigration Bureau, though remaining under the direction of the Department of Labor. On the basis of detailed reports from Bureau and field officials, Mr. White came to the conclusion that "the change [made in January 1932] was a mistake and destroyed to a great extent at least the effectiveness of both the Border Patrol and the Immigration Service in protecting the borders, and the morale of the Border Patrol Service." According to available information, the unified set-up decided upon in 1933 has been more satisfactory than the immediately preceding arrangement. While experience in this connection may not be conclusive by itself, it establishes a presumption that the Patrol should be left in the present set-up.

The Immigration Border Patrol exists because of the responsibilities which devolve upon the Immigration and Naturalization Service, of which the Patrol is merely one of several functioning units. The consolidation in 1933 of the Immigration and Naturalization Bureaus

[4] Report to Brookings Institution by Commissioner D. W. MacCormack.

into a single Immigration and Naturalization Service was a commendable achievement of co-ordinated administration. It resulted in the creation of a unified administrative agency empowered and equipped to deal with the alien from the time he enters the country to the time he becomes a citizen. There must, for example, be a single record of each individual showing all of his pertinent acts during the period of transition, since each such act has a bearing on the general question of the alien's status, rights, and obligations. Close co-ordination is required not only in records but also, as we have just seen, in actual operations.

The Customs Patrol, as previously pointed out, is under the Enforcement Unit of the Customs Agency Service. The Investigative Unit of the same Service has the general function of detecting and preventing frauds on the customs revenue. The customs agents, who operate under this Unit, investigate and report on all matters brought to their attention by the Commissioner of Customs, collectors, appraisers, surveyors, comptrollers, and others, relating to drawback, under-valuation, smuggling, dumping, personnel irregularities, customs procedure, tariff classifications, licensing of custom-house brokers, petitions for remission of additional duties, and other matters. Customs agents are authorized, both in the United States and abroad, to examine the books of exporters and importers and in certain cases to obtain subpoenas for books and records; and to make searches, seizures, and arrests. In addition, they investigate administrative practices and the conduct of customs personnel and audit the books and accounts of collectors of customs and of customs brokers. The customs agents, therefore, have internal, as well as auxiliary, enforcement functions. They operate throughout the United States and in foreign countries, but with a high concentration of work at the principal ports of entry. The Customs Patrol operates almost exclusively along the coasts and land borders, the larger part of its work being along the land borders.

Thus, the Customs Patrol and the customs agents are in the same Service, which is an integral part of the Bureau of Customs. The Patrol works in conjunction with the investigative officers. Actual policing is performed by the Patrol, while the intelligence work prior to seizures and the investigative work subsequent to seizures is carried on by the customs agents. The larger part of the work of the customs agents is non-criminal. The application of the customs laws is highly complex and technical; and efficiency in this work requires special training and previous experience in customs administration. From the standpoint of obtaining qualified men for customs enforcement work, it seems certain that a separation of the Customs Agency Service from the Bureau of Customs would be extremely prejudicial to efficient customs administration.

The Customs Agency Service, in addition to its auxiliary enforcement duties, has the function of internal enforcement, that is, it investigates the offices of the customs collectors. This duty of the Customs Agency Service might conceivably be separated administratively from external enforcement. Such a separation of duties would not be likely to result in any economy; and, even if the duties were thus divided, we should still find that the external enforcement duties of the Service were closely connected with the operations of the Bureau of Customs as a whole. In other words, the Customs Agency

Service, including both the customs agents and the Customs Patrol, should be looked upon as integral and essential features of the administration of the customs laws.

PERSONNEL TRAINING

Members of the Immigration Border Patrol are appointed after Civil Service examination and serve a probationary period of one year. New appointees are instructed in the use of firearms, immigration and naturalization laws, criminal law and court procedure, rules of evidence, Spanish (on the Southern border), investigation methods, interrogation of suspects, patrolling, smuggler's methods, first-aid, and so forth. Intensive training extends through the probationary period; but further training is given during an officer's entire service.

All employees of the Customs Agency Service are likewise under Civil Service. At times, appointments are made from an open Civil Service list or by transfer from other government departments. Usually, appointment is by transfer of selected employees from the Customs Service, after not less than five years' experience therein. In practice, most appointments are made only after ten years' or more experience in customs work. Because of this fact, post-entry training is individualized and varied. The training period is generally six months. Instruction is by observation of the various branches of the collector's organization and by study of customs laws and regulations. On completion of the training period, the student takes an examination. In all cases, new agents, when assigned to actual investigations, work in close association with experienced members of the Service. In addition, the Customs Bureau operates a correspondence school, open to customs agents as well as other customs employees.

Customs Patrol inspectors are given instruction in customs laws, enforcement methods, rules of evidence, court procedure, first-aid, personal hygiene, and use of firearms. From one to two weeks of training a year is given at district headquarters. Practically every member of the Customs Patrol is said to be enrolled in the correspondence school.

EQUIPMENT

The equipment used by the Immigration Border Patrol in October 1936 included 316 automobiles, twenty-four trucks, nine 18-foot river patrol speed boats, two 25-foot inshore cabin cruisers, two 26-foot harbor-patrol boats, and eighteen skiffs, canoes, and outboards.

For about two years, the Immigration Border Patrol has been engaged in studying, building, and installing radio communication facilities. Most of the equipment has been constructed in the radio laboratory located in the Immigration and Naturalization Service reservation at Detroit, under a WPA project. Half or more of the automobiles and a number of boats are now equipped with radio receivers. More than fifty fixed receiving stations have been established. About eighty automobile or boat transmitters for two-way communication have been completed or are under construction, and a number are in operation. The Patrol operates broadcasting stations at Marine City, Detroit, Buffalo, and El Paso. In October 1936 the erection of radio masts and the installation of radio transmitters was in progress at a number of other stations. When these various installations are completed, the Border Patrol will have a highly effective chain of radio communication stations over the entire land borders. In the Florida district, the Immigration Border Patrol uses Coast Guard radio facilities, and it is not planned to install transmitters in that district so long as the Coast Guard shares the use of such equipment.

The transportation equipment of the Customs Patrol includes about seventy speed boats and outboards, over 300 automobiles, a few snowmobiles and snowcycles, and a number of horses. Neither Patrol has airplanes.

SHALL ALL PATROLLING BE UNIFIED?

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A bill was drafted in 1930 for the purpose of combining the two patrols and placing their administration under the Coast Guard; and hearings on the subject were held on April 24 and 25, 1930, before the House Committee on Interstate and Foreign Commerce. A comprehensive and detailed survey had been made by the Coast Guard and probably also by the two bureaus more immediately concerned; and the bill was apparently approved, at least in principle, by both the Treasury and Labor Departments. The plan of consolidation advanced at that time was apparently motivated by a desire to make prohibition enforcement more effective. Efficiency in the regular work of the Immigration and Customs Services appears to have been a secondary consideration. No reduction in the cost or personnel of the patrols seems to have been contemplated. Indeed, the Treasury Department proposed an actual increase in personnel of 924 employees and in annual expenditure of $3,414,496 for the patrolling work proper, together with increases for overhead administration.[8]

It was stated in the 1930 hearings:

> One of the essentials of an effective border patrol is that it be organized upon a military basis, with an enlisted and commissioned personnel, and with military training and discipline.

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[8] At a later date, however, the Department of the Treasury submitted to the Bureau of the Budget a plan of consolidation under the Coast Guard with an estimate of expenditures indicating considerable savings.

> What I mean by that is that it is essentially a police force and that we are likely to get probably better men, a higher standard of morale, build up more rapidly a tradition of service, if we have a semi-military or military organization, than if we attempt to operate under civil service laws.[6]

Nevertheless, it was admitted at that time that even if a unified border patrol were placed under the Coast Guard

> . . . it should be organized and maintained as a distinctly separate organization. The Coast Guard has other duties more important than the prevention of smuggling on our land borders. . . . Patrolling our land borders is essentially a police function. The Coast Guard proper is a naval organization charged with the duty of protecting life at sea and enforcing on our ocean boundaries the laws of the United States. We do not propose to make policemen of our sailors. But we do want to avail ourselves of their central organization.[7]

Consolidation of the border patrols with the Coast Guard would apparently tend to improve co-ordination of anti-smuggling work on land and water. It may be urged in this connection that both the Customs Patrol and the Immigration Border Patrol now operate to some extent on water as well as on land. While most of the floating equipment of the Customs Service has been turned over to the Coast Guard, no steps have been taken toward a like transfer of the floating equipment of the Immigration Service. Its boats are small and few; in fact, they are fewer than those which are still operated by the Customs Bureau. There is no evidence of duplication in the use of floating equipment; but, of course, the possibility of an unnecessary duplication on water could be obviated by the consolidation of land and water patrol work under the Coast Guard.

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[6] Statement of Ogden L. Mills, 71 Cong. 2 sess., *Border Patrol*, Hearing before H. Committee on Interstate and Foreign Commerce, p. 5.

[7] The same, pp. 5-6.

Consolidation with the Coast Guard might be urged also as a means of avoiding duplication of aviation and radio equipment and operation. In this connection, no evidence appears of duplication at the present time. Neither land patrol has at present any airplanes; and, although the Immigration and Naturalization Service is extending its radio facilities, it continues to make use of Coast Guard transmitting stations in areas where such stations are operating.

While the question of operations on water and in the air is not important to the Immigration and Naturalization Service, it may be economical to maintain the policy of keeping water and air enforcement operations centralized so far as possible in the Coast Guard. This organization is already equipped for large-scale operations on water and in the air. Its activities are flexible; and it has had long experience as a service agency, rendering a variety of services to other agencies of the government, outside as well as inside the Treasury Department, and including the Immigration and Naturalization Service. In certain coastal areas, the Coast Guard, it is understood, now performs all of the functions of both the Immigration and Customs Patrols.

The principal reason for the expansion of the Customs Patrol was the need for enforcement of national prohibition; the principal reason for the original establishment of the Immigration Border Patrol was the enactment of the so-called Quota Act. It is apparent that conditions have materially changed since the original establishment of the two patrol forces. The most significant change has been brought about by the repeal of the Eighteenth Amendment. Prior to repeal, liquor smuggling was the major problem of the Customs Patrol on all land and sea borders of the United States. Since repeal, liquor smuggling has gradually decreased; and at the present time it is said to be at the minimum except on the Mexican border. It is pointed out by customs officials, however, that droughts in the United States and other conditions have made the smuggling of livestock, wool, and agricultural and dairy products profitable, and that such commodities have in large measure replaced liquor as the major problem of the Customs Patrol. The smuggling of narcotic drugs has also assumed outstanding importance; but narcotics smuggling, according to those most familiar with it, is largely a coastal activity and the smugglers, probably in a majority of cases, are found among the crews or passengers of legitimate vessels. In 1935, it is true, the Immigration Border Patrol in California seized 310 tins of opium valued at about $50,000; but this seizure was made over a hundred miles from the border; and the evidence is said to have indicated that the narcotics had been smuggled through a seaport and not over the land border. Considering the work of both patrol organizations, it appears that the major problem of land border control is at present and probably will be in the future the prevention of the smuggling of aliens.

To the placing of the Immigration Border Patrol under the Coast Guard it may be objected, in short, that the Coast Guard is a naval or quasi-naval organization; that it automatically goes under the Navy Department in time of war; that the clear-cut character of its present geographical jurisdiction should be maintained; that Coast Guard personnel, training, traditions, equipment, and operations are not analogous to those of the Immigration Border Patrol; that the work of the latter is predominantly on land; that alien control is the major land border problem; and that the operations of the Patrol are closely integrated with the general functioning of the Immigration and Naturalization Service.

Thus, it has been suggested, on the one hand, that the Coast Guard be transferred to the Navy and, on the other hand, that the land patrols be placed under the Coast Guard, but no one, apparently, has yet been rash enough to recommend that the land patrols be handed over to the Army. Note this bit from the appropriation hearings:

> Mr. Ludlow: You are estimating $19,440 as you have just said, for guards at the Fort Knox bullion depository. How many guards do you expect to employ there and what is the necessity for them?
>
> Mrs. Ross: We have twelve guards there; we want twelve more.
>
> . . . .
>
> Mr. Ludlow: They are civilian guards, I believe you have told us?
>
> . . . .
>
> Mrs. Ross: Yes, they are Civil Service employees.
>
> Mr. Ludlow: Some of us have the impression, or had it, that this depository, being located where there was an Army post, would be guarded by soldiers.
>
> Mrs. Ross: Many persons have had that idea, but the War Department has said positively that it does not do that kind of duty. It will, though, as I have stated, render assistance in case of emergency, but it will not be responsible for guarding the repository.
>
> Mr. Ludlow: And the War Department does not propose to furnish any guard whatsoever?
>
> Mrs. Ross: No; except in case of emergency. . . . We are, in fact, quite remote from the Army post proper. We are a considerable distance away, and we depend upon our own guard system and the protective devices installed.[8]

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[8] *Treasury Department Appropriation Bill for 1938,* Hearings, pp. 335-36.

Thus, the Coast Guard does not "propose to make policemen of its sailors"; nor does the Army intend to make watchmen of its soldiers.

SHALL THE LAND PATROLS BE CONSOLIDATED?

A good deal of discussion has revolved around the question of consolidating the Immigration Border Patrol with the Customs Patrol, the consolidated agency to be administered either by the Immigration and Naturalization Service or by the Bureau of Customs.

The first argument for this plan is based, naturally, on the fact of territorial overlapping and the appearance of duplication. The latter, however, relates chiefly to the customs and immigrant inspectors, rather than to the patrolmen. A person entering the country is inspected once from the standpoint of citizenship and again from the standpoint of taxation.[8] Why can not one man or one set of men perform both inspections at once? At a few unimportant points of entry, customs inspectors have for several years done the work of immigrant inspectors, or the latter have taken over customs work. In places where traffic is heavy, however, more inspectors are required; and specialization and division of work are not merely justified but indispensable. In such places, the fact that the immigrant inspector and the customs inspector work separately and are responsible to different agencies does not necessarily mean duplication, inefficiency, waste effort, or any added inconvenience to the public.

Consolidation of the two patrols would, theoretically, produce a better coverage of the border with the present personnel or effect economies through reduction of personnel. It might make possible more elaborate organization. For maximum efficiency, the head of a district office should have an assistant, for it is impossible for an official to travel, maintain outside contacts, or take personal charge of important investigations and at the same time do his headquarters work as it ought to be done. Consolidation of field officers, by creating a larger field force in each district, makes possible the provision of assistants in the field headquarters offices. A larger force would presumably permit stronger concentrations in emergencies. The flexibility of the combined force, however, would depend somewhat on all of its members' having the same training. If it were necessary for part of the consolidated force to specialize in customs matters and the other part to specialize in immigration matters, the force as a whole would not be as flexible, as unified, or as economical as it might at first glance appear. Unfortunately, such specialization appears to be essential.

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[8] "It seems to me almost absurd to see on one side of a building at a small port the Immigration Service, and on the other side the Customs Service, one handling customs and the other handling immigration. In some places where the work is slack, there is not probably ample work for both." Testimony of James H. Moyle, commissioner of customs, *Treasury Department Appropriation Bill for 1938*, Hearings, p. 252.

Consolidation might help to insure continuous co-operation between the two branches of patrol work and the elimination of such duplications and conflicts as now occur. Valuable co-operation now takes place between the two forces; and it is doubtful whether any serious jurisdictional or operating conflicts have occurred.

Each patrol is a means to an end. Neither can act as an independent agency. Both are established for auxiliary law-enforcement work. Co-ordination is of course necessary between them; but it is even more necessary that co-ordination should be achieved between the Customs Patrol and the other branches of the Customs Service and between the Immigration Border Patrol and the other branches of the Immigration and Naturalization

Service. If the field organization of the Bureau of Immigration and Naturalization were dismembered and if the Immigration Border Patrol were directed by some authority other than the Commissioner of Immigration and Naturalization, it would be necessary at once to establish a means of co-ordinating the Patrol with the inspection branch of the Immigration and Naturalization Service. The problem of co-ordination thus created might be more difficult than the present problem of co-ordinating the two separate patrols. It would seem that, inevitably, considerable damage would be done to the continuity and unity of operations within the Immigration Service. Moreover, the Commissioner of Immigration and Naturalization could hardly be held responsible for results if he were shorn of complete control over one of his indispensable instruments of enforcement. The relative importance of the Immigration and Naturalization Service in the Department of Labor and the fact that the Service is predominantly a field force suggest that any division of the field force or any transfer of functions and personnel to another department should be undertaken only after the most careful consideration.

Substantially the same line of argument may be used against a transfer of the functions and personnel of the Customs Patrol to the Immigration and Naturalization Service.

SHOULD PATROLLING GO TO THE BUREAU OF INVESTIGATION?

If it is granted that the Bureau of Investigation should be the general crime-control agency of the federal government, it might be argued that the Bureau, like municipal police departments, should be equipped for patrolling. If so, in what area is patrolling more necessary an along the borders, where fugitives presumably escape? If, from the standpoint of general law enforcement, the borders need patrolling, why not transfer the ustoms Patrol or the Immigration Border Patrol or oth to the Bureau of Investigation? Then, it may be ontended, we would have at last a well-rounded federal crime-control agency.

Against this contention we must apply with redoubled force the arguments which have just been adduced against a consolidation of one patrol with the other. In favor of a transfer to the Bureau of Investigation, very little of an affirmative and practical nature can be said. To be sure, some criminals wanted by the Bureau do escape to foreign countries, just as fugitives from other agencies similarly elude capture. As of October 10, 1936, the Bureau was seeking the apprehension of 579 fugitives. Of these, forty-seven were known to be in foreign countries from which extradition was for some reason impossible. It is not without interest, too, that while the Bureau of Investigation, Secret Service, and Post Office inspectors are attempting to prevent our citizen criminals from leaving the country, it is the duty of the Immigration and Naturalization Service to prevent alien criminals from coming in and to deport those who are found here. During the fiscal year 1936, the Service deported 1,727 criminal aliens. Bruno Richard Hauptmann, by the way, was an alien self-smuggler, who, unfortunately, had not been caught and deported.[10] Whatever the ethics of the matter may be, it is numerically much more important to get alien criminals out than to keep citizen criminals in. In any case, the Immigration Border Patrol has a point of view quite different from that of the Bureau of Investigation and other agencies which operate in the interior. The chances are that a few domestic criminals will escape to foreign countries, whatever the border patrol set-up may be. A fugitive-proof patrol of land borders as extensive as ours could be maintained only at prohibitive expense. The problem does not seem to be of much relative importance; and it can probably best be handled, as now, through co-operative action by the Bureau of Investigation and other enforcement agencies with the passport authorities, customs and immigration inspectors and patrolmen, the Coast Guard, the steamship lines, and foreign police departments.

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[10] It is not desired, of course, to support the rather common impression that aliens as a class are largely criminal. Of the 9,195 aliens deported in 1936, about 19 per cent were criminals; but approximately 4,000,000 aliens are in the country.

SUMMARY AND CONCLUSIONS

In spite of their superficial similarities, their parallel operations, and their apparent duplications, the two land patrols are different; and their consolidation with each other or with a third agency would be impracticable. The Customs Patrol should remain in the Treasury Department, where it is already fairly well co-ordinated with the Coast Guard and other Treasury enforcement agencies. The Immigration Border Patrol is and must continue to be an integral part of the Immigration and Naturalization Service. It is, perhaps, not administratively essential that this Service be located in the Department of Labor. It would not be illogical to transfer the entire Service to the Treasury Department; and such a reorganization would probably facilitate co-ordination with the Coast Guard and the Customs Patrol. But it is idle to pursue the fantasy further. The Immigration and Naturalization Service has been recently "humanized"; its character and reputation are now good; its traditional association is with labor interests; and the administration of naturalization, particularly, has a pronounced educational or social-welfare slant.

So, if something needs to be done, we must fall back on inter-departmental co-ordination. Perhaps there can be more interchanges of personnel and duties between the Customs Service and the Immigration and Naturalization Service and more division of territory between the two patrols than there are now. It is possible that the two agencies may jointly undertake a detailed study of their common problems, and find the best solutions. It is possible that they may require some leading, urging, or compelling.

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Law Enforcement and Federalism: Bordering on Trouble

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The central idea of federalism is a sharing of authority, power and responsibilities among central and constituent governments of a single political entity. Certain problem areas have received a great deal of attention, particularly those relating to the derivation and distribution of revenue. Much less has been written about other aspects of policy and administration in federal systems. The literature is particularly scanty on the structure of law enforcement in federations, and the consequences of various configurations of power and responsibility for local policy processes. Perhaps this in turn is due to insufficient consideration of the role of cities in federations, with the exception of the special case of capital cities.[1]

Studies of American law enforcement, by contrast, have given considerable space to the problem of fragmented law enforcement and its local policy implications.[2] The appeal for more coordination or outright consolidation is proverbial. Much of this literature, however, suffers from an overly technical perspective, in which the political underpinnings of administration are not visible--such as the influence of federal ideas and practice. The complex politics of federalized law enforcement will be examined here by a case study of its operation in a metropolitan setting on the southwestern border of the United States. In the unique geopolitics of borderlands--not yet fully described in comparative politics--the policy problems of federalism in law enforcement are intensified, and thus perhaps more readily discernible.[3]

LAW ENFORCEMENT IN THE PASS OF THE NORTH. El Paso/Cd. Juarez is the largest community on the U.S./ Mexican border--indeed, the largest border city in the world. Its combined population is now estimated to exceed 1.3 million, with about 450,000 on the American side in El Paso County, 400,000 of whom live in the city of El Paso. The city, county, state and national border here follows the Rio Grande, which forms a physical boundary--but not barrier--with the city of Juarez in the Mexican state of Chihuahua. Linguistically, socially, and culturally, the division is even less clearcut. In recent years upwards of 42 million crossings have been recorded on the bridges linking the cities--and many more millions of undocumented crossings are made.[4]

Law enforcement here is in part transnational, and doubly federal, as both nations have multiple agencies that parallel their federal structures (for Mexico, one of the few clearly federal aspects of a political system often described as unitary in practice). The remarks that follow will consider only the problems of the American side, but much of this commentary could be applied to the Mexican situation as well.[5]

All levels of government in the U.S. can, and do, maintain law enforcement agencies. Within each level, functional specialities or territorial divisions and overlaps give rise to multiple forces. The bulk of the work, however, is carried out by local agencies, reflected in the proportions of local budgets dedicated to public safety. The result is a system of law enforcement that sometimes seems to defy description, much less analysis. Along the border the system is at its most labyrinthine, with an array of federal and state agencies present in strengths far exceeding those of comparable "interior" cities.

Sixteen federal agencies with significant law enforcement responsibilities operate here, ranging from the miniscule (e.g., the single agent for Fish and Wildlife) through medium-sized forces (such as the Customs Patrol of thirty-three) to those of several hundreds (the Border Patrol and the Ft. Bliss military police). Texas provides a Department of Public Safety office and specialized forces for narcotics, intelligence, and the like, and also authorizes the campus police for the El Paso branch of the University of Texas. A Sheriff's Department staffed by some two dozen deputies serves the 1056 square miles of the county--including the 176 square miles of city--and there is a similar force in the adjoining rural New Mexican county of Dona Ana. The primary work of law enforcement falls to the municipal Police Department, which at well over 600 persons is the largest force. In city parks its work is supplemented by special park police. Reflecting the entrepreneurial American culture, there are a score of private police forces, running from one-man detective agencies through large commercial security firms whose size and style strongly resemble public safety agencies, up to the railway police of the three major El Paso railyards--responsible for control of the international rail bridges. Excluding the private forces, nearly 2000 peace officers work in the city, in roughly three dozen agencies.[6]

COORDINATION: STRONG, WEAK AND MISSING LINKS. A great deal of coordination among these forces occurs in very informal, but arguably very effective, ways. Officers in different forces, sharing a common and difficult job, often know each other and may have worked in the others' agencies.[7] A local chapter of the Federal Criminal Investigators Association includes all federal agencies in its professional meetings. Social contacts among all police agencies occur through media such as the monthly Sheriff's Posse meeting or a Law Enforcement golf tournament. A declining frequency of transfer--partly the result of rising costs--has stabilized these associations. Personal and professional friendships facilitate informal working agreements, which in turn foster others if they are successful. Such informality is preferred by many informants for its flexibility, unencumbered by the need for detailed outside or higher approval.

A variety of institutional contacts, generally of bilateral nature, supplements these informal personal links. Small agencies such as Fish and Wildlife must rely on others for effective operation. In larger agencies a practice of designating liaison for other agencies is developing, replicating the widespread use of liaison with Mexican police. Such links occur within and across territorial levels, such as Ft. Bliss to sheriff's office, or Customs Patrol to FBI. The most prominent effort is that of the Rio Bravo Task Force, which utilizes agents of the Drug Enforcement Administration and members of the city narcotics squad. On occasion there are multi-lateral contacts--e.g., the conferences on border crime under sponsorship of the border states' attorneys general. The major institutional umbrella is that of the El Paso Intelligence Center, or EPIC, now drawing border-related information from and reporting to many federal agencies, under FBI aegis.[8]

Praise for successful cooperation in this way must be weighted, however, against numerous failures. A system dependent upon personalities and ad hoc-coordination is vulnerable to oversights, personal frictions, and institutional jealousies. Customs, DEA, the FBI, and even park rangers have had many clashes here and elsewhere along the border which disrupted particular operations; many other such confrontations could be cited.[9] A survey of city officers indicated that very few--16 percent--felt cooperation with other agencies was satisfactory. Two-thirds expressed a desire for some merger of federal agencies, and three-quarters of those dissatisfied urged more formal coordination through police leadership. A similar discontent on inter-agency cooperation was reported by officials in a majority of the cities in the Organization of U.S. Border Cities.[10]

Local or federal merger, however, seems unlikely. Entrenched interests militate against city-county merger, in law enforcement or system-wide. Similar entrenchment of interests has also stymied the much ballyhooed merger of federal agencies on the border, prompted by rising concern within and without the frontier about crime, illegal immigration and potential terrorism along the 2000 miles of highly permeable border. After two years of cabinet-level study and discussion, it was reported in the summer of 1978 that a proposal to Congress for a new "border management agency" would be forthcoming. Inspection and patrol work of the Immigration and Naturalization Service would move from Justice to Treasury, to combine with Customs; meantime the Alcohol, Tobacco and Firearms work of Treasury would shift to Justice, to join the FBI and DEA. State would surrender general visa and refugee policy to Justice. Immediately upon this news, opponents sprang up as from dragon's teeth. They included Chicano and other Hispanic political activists, State Department officials, Congressional committees, the Mexican government, George Meany and the AFL-CIO, INS Commissioner Castillo, and large numbers of the affected agencies' staff. The plan was shelved, at best to await a non-election year or a new administration.[11]

In any event, not all border problems of El Paso law enforcement would have been resolved by this merger. Nearly every agency in the area has some reason for contact with Mexican police, and many designate one or more staff members to spend most of their time in liaison. The potential for one agency to affect another's operations is evident. In addition, this is effectively a system of international relations in which both private and non-central public actors may have substantial impact on central government policy-making. A notable example is the taxi blockade mounted by El Paso police on the international bridges as part of the "streetcar war" between El Paso and Cd. Juarez.[12] Even given formally exclusive liaison rights, a border management agency would be unlikely to eliminate all such international bilateral relations in the context of decentralized law enforcement and the exigencies of life in the frontier.

The transnational dimension of local law enforcement has given rise to an interesting policy proposal from the city. In capsule form, the argument is that the failure of the federal government to adequately carry out responsibilities on the border has led to increased police costs for the city, which must combat crimes committed by illegal aliens, the flight of criminals and stolen goods to Mexico, and the like. These costs are estimated at 10 percent of the police budget, some $1.6 million. Accordingly, a new kind of federal "impact aid" is requested to redress the injury done to local taxpayers. Support for this effort has been offered by various border organizations, but to date without avail. The existing federal authorizations for grants antedated this idea; accordingly it is not yet in the "art of the possible" in American federalism.[13]

POLICY OPTIONS: FORGING NEW LINKS. The structure of law enforcement in El Paso presents a strong case for new initiatives in federalism. The burden of this work falls here, as elsewhere, on local forces; they must deal with the crime incidental to the border and yet are powerless to deal with the border itself. Nor can these agencies provide the manpower or finances to institute and maintain major coordination programs. State and federal sponsorship and financing is essential on the border, where these agencies play such an important role. The costs may be high--some $2 million has been expended in the much smaller Laredo/Brownsville programs of the Texas Attorney General's Organized Crime Task Force and LEAA.[14] Improved coordination might eventually reduce costs however by controlling some of the expensive, and increasing, duplications of offices, equipment, personnel, and support.

The collapse of the federal "border management agency" idea increases the need for other initiatives. Bad management of the border, partly attributable to the conflicts that develop in the multiple interstices of the existing network, has substantial adverse effects on both city and country. Any reorganization proposal stands little chance of success. The interests affected are numerous and powerful, while proponents are physically and culturally isolated from the federal center which makes the decision, and divided as well over specifics of reorganization. The response to the problem has been to increase manpower and funding for existing forces. Whether this improves border control is arguable; it is certain that it increases the stakes in the struggle over reorganization and thereby reduces the probability that any particular plan will be accepted.

Given this prospect, some serious consideration of the "impact aid" innovation is needed, leaving aside for the moment quarrels about the actual percentage of costs consequent to e burden of the border." Such grants would improve the acity of local agencies to assist the federal government its own border work, while helping to reduce the inequities erent in federalism. For example, improved law enforcement y follow increased contacts with and aid to Mexican police encies as they so request. Such aid has been, and perhaps best, accomplished via local channels.[15] Both local and deral levels would benefit.

As long as the complex, cumbersome, and costly system of centralized and wildly disparate law enforcement agencies in e U.S. is maintained, law enforcement and federalism will ombine as policy problems. Given the trends of Mexican olitical and economic development, and the long history of he borderlands as a "peculiar place" in the social and political geography of both nations, it is also predictable that ransnational law enforcement will generate problems. National oncerns may dictate responses to border problems that have erious local side-effects. These dilemmas of federalism for aw enforcement in the border context, however, may produce advantage from adversity if they force the implementation of better linkages and greater supports within the network of federalism.

NOTES

[1] See William H. Riker, Federalism: Origin, Operation, Significance (Boston: Little, Brown, 1964) and Ivo D. Duchacek, Comparative Federalism: The Territorial Dimensions of Politics (New York: Holt, Rinehart and Winston, 1970) for two particularly good analyses of federalism as concept. The most current material is presented in the quarterly journal, Publius, which is devoted to studies of federalism. On law enforcement and federalism, see John W. Winkle III, "Intergovernmental Relations in Criminal Justice," Policy Studies Journal 3:1 (Autumn 1974); O. Ohonbamu, "The Dilemma of Police Organisation under a Federal System: The Nigerian Experience," Nigerian Law Journal 6 (1972); Prabhu Datta Sharma, "Police Administration, Democracy and Federalism in India 43-68," Political Science Review 10:3-4 (July-December 1971); James C. McDavid, "The Effects of Interjurisdictional Cooperation on Police Performance in the St. Louis Metropolitan Area," Publius 7:2 (Spring 1977); and John W. Winkle III, "Intergovernmental Relations in Criminal Justice," Crime and Criminal Justice: Issues in Public Policy-Making, ed. John A. Gardiner (Lexington, Mass.: Lexington, 1975). On the urban dimension of federalism, see Daniel J. Elazar, "Urbanism and Federalism: Twin Revolutions of the Modern Era," Publius 5:2 (Spring 1975); Donald C. Rowat, "Comparing the Governance of Federal Capitals," Journal of Constitutional and Parliamentary Studies 7:3 (July-September 1973).

[2] Task Force on the Police, President's Commission on Law Enforcement and Administration of Justice, Task Force Report: The Police (Washington, D.C.: G.P.O., 1967), chap. iv; see also the articles by Winkle and McDavid, cited in n. 1.

[3] On borders and borderlands, see my discussion in "Cooperation and Conflict: Dilemmas of Transnational Law Enforcement on the US-Mexico Border," paper presented to the Association of Borderlands Scholars, Denver, April 1978. An analysis of the political and economic significance of this border is given by Raul A. Fernandez in The United States-Mexico Border: A Politico-Economic Profile (Notre Dame: University of Notre Dame Press, 1977).

[4] A statistical profile of the area is found in Inventory of Economic, Sociocultural and Socioeconomic Resources in the Rio Grande Valley (Las Cruces: Center for Business Services, New Mexico State University, 1977).

[5] For details of the Mexican structure, see Carter, n. 3. Both the U.S. and Mexico are unusual in the extent of federalism present in their criminal justice systems. Other nations, such as Nigeria, that once had multiple enforcement agencies have now unified them.

[6] This description, and the discussion that follows, are based upon research conducted in the summers of 1977 and 1978, including a series of interviews at all agencies in the metropolitan area and at the office of the Attorney General's Organized Crime Task Force; examination of records at these agencies; files of the El Paso Times and Herald-Post; and a survey of El Paso Police Department staff. Interviews are identified by agency where relevant but otherwise are held anonymous, by request. Material provided by the Organization of U.S. Border Cities and the U.S. Border States Commission has also been incorporated.

[7] One-quarter of the resignations from the El Paso Police in the first half of 1978 involved transfers to federal police agencies in the city.

[8] See "Yachtjack!" by Alex Finer, Sunday Times (London), November 27, 1977; Christian Science Monitor, April 18 and 25, 1977; El Paso Times, November 23, 1977.

[9] See the report of a major battle of this kind on July 3, 1974, New York Times; recent episodes are reported on April 30 and May 10, 1978, El Paso Times.

[10] The major concern expressed involved relations with federal agencies; this may have been influenced by the publicity being given to the problem of federal work on the border at the time of the survey, June 1978. Approximately 15% of the police force was included in the survey. The OUSBC survey was conducted in late summer 1977; interview, OUSBC.

[11] On the merger, see the El Paso Times reports of June 29, October 9, 1977; June 27, July 3 and July 13, 1978; El Paso Herald-Post, June 22, 1978; and New York Times, October 19 1977 and May 31, 1978.

[12] See Thomas J. Price, "Noncentral Governments as International Actors: A Case Study and Discussion," paper presented to the Annual Meeting of the American Political Science Association, Washington, D.C., September 1977; and Richard W. Mansbach, Yale H. Ferguson, and Donald E. Lampert, The Web of World Politics: Nonstate Actors in the Global System (Englewood Cliffs: Prentice-Hall, 1976).

[13] On the "burden of the border" and federal "impact aid," see the reports in the El Paso Times, April 27 and 28, May 3, and October 16, 1977. Interviews, El Paso Office of Urban Grants; Organization of U.S. Border Cities; El Paso Police Department, 1978.

[14] Interview, Organized Crime Division, Office of the Attorney General, Austin, 1978.

[15] See Carter, "Cooperation and Conflict," pp. 12-13, and citations n. 28 through n. 31.

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AGENCY FRAGMENTATION AND ITS EFFECTS ON IMPACT: A BORDERLANDS CASE*

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ABSTRACT

The US-Mexico border is both a line of potential separation and a span of contact and blending of cultures. National and local perceptions and intentions about this boundary often differ, and the formulation and implementation of border policy is thus subject to many conflicting pressures. Not the least are those generated by government agencies with border responsibilities. Perspectives as local, border, and field offices, combined with inter-agency rivalry and uncertain jurisdictions, lead to border management operations that are inconsistent with apparent national (central) policy, illustrated by the complex bureaucracy present in El Paso--the largest urban site on the border. Proposed solutions cluster around improvement of the existing structure (with better equipment, budgets, or staffing) or reorganization of the primary border agencies. Recent efforts by the federal government to introduce changes based on both of these approaches have been markedly unsuccessful, reflecting a continuing inability to resolve fundamental differences of opinion (both intracentral and central-border) on the goals of border policy.

"Policy' is a rather vague term, referring to a prudent or advantageous course of action, guiding principle, or procedure. It has, however, a second, less dignified meaning: a form of gambling on unpredictable numbers. The latter usage is curiously appropriate for the purposes and actions associated with our borders as a nation-state.

Borders are among the most intractable, and yet variable, elements of the nation-state system, based as it is upon centralized control of territory (Starr and Most, 1976). The presence of national boundaries is essentially a condition of statehood. The actuality of borders, however, depends upon a host of past events, present acts, and future intentions, some of which are conscious responses to contemporary conditions, while others are unconscious consequences of history. We have little theory to guide us in the analysis of borders--in general or in particular--although there is much historical and contemporary material relating to borders upon which we may draw. Neither the study of political organization and behavior nor the related field of comparative politics has much to say about the boundaries of the political models offered. This is both curious and regrettable. The nation-state and its institutions, which have been dominant in theory and in practice, must be defined, enclosed, demarcated, just as they require centralized direction. The form and operation of the institutions of governing may vary widely; so too the form and operation of the boundaries can, and do, assume many different patterns. It is odd that we have paid relatively little attention to the latter variations as compared with the former; it is lamentable, for it makes the analysis of border policy and implementation much more rudimentary and problematic than it should be (Zartman, 1965).

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*The discussion that follows is based upon research in El Paso, 1976-1979, including interviews at all federal, state and local agencies with border concerns, and interviews at the headquarters of the various federal agencies in Washington, D.C. in November and December 1978. The author wishes to thank the many informants whose assistance is reflected in this essay, and also to note the editorial assistance of Stephen Wasby. The views, (and the errors) herein are my own, and do not in any way represent those of the Foreign Service or Department of State.

Border policy is a set of principles for action concerned with the character of the border and the borderlands, and the relationship with the neighboring state(s). Within the nation-state, far from the border, various interests make demands affecting the unidimensional border and its surrounding zone, the borderlands (contiguous areas daily and visibly influenced by the presence of the border and the neighboring state and society). Interests in the borderlands--which may be unique to this zone, or simply regional variants of wider interests--struggle among themselves and also direct demands to the center. The central government bears the responsibility for the maintenance of the border and the contingent conditions of the borderlands. The historical nature of the border is the context, within which present policy--and implementation--shapes the future border (Fernandez, 1977; Price, 1971).

POLICY AND MACHINERY: THE EL PASO CASE. Whatever the specifics of border policy, it must be implemented through administrative agencies, the nature of which affects policy itself. In the U.S.-Mexican case, these agencies are a complex and somewhat confused set, a set which may be said to be fragmented in three ways dysfunctional to ready implementation of a centrally-determined intention. First, there are divisions between local and general (national) interests. These are closely related to, but not duplicates of, the rifts between the interests and perceptions of the borderlands as opposed to those of the heartlands, and perhaps even those of the state itself as a political entity. Third, there are multiple agencies at the center which are often at odds with one another as organizations and whose battles reverberate along the border.

The El Paso sector offers a good view of these problems. As the largest urban site on the border, it is host to nearly all of the fractious federal agencies as well as numerous local border-oriented private and public organizations (Bath, 1978; Carter, 1979). El Paso is older than Texas itself, although the settlement north of the river took shape as a city largely due to the establishment of the border along the Rio Grande, dividing a community that had been a unity within Mexican territory. For many decades after, the border existed in law, and on maps, but even in this sense it shifted along with the river until redefined by the 1964 Chamizal treaty (Mueller, 1975).

The changing pressures upon, and interests of, the federal government regarding the southwestern border have combined with the growth of El Paso and its sister city, Juárez, to produce an administrative jumble. It cannot be emphasized too strongly that no single U.S. agency has, or has had, sole, major, or even coordinating authority on border and borderlands policy at the center. Federalism and the competitive nature of bureaucracies, combined with a series of not entirely consistent judicial opinions on immigration law and rights of aliens, have created a vast maze for the making and implementation of border policy, within which relationships and powers are indefinite and shifting. On the border itself the apparatus is smaller but equally labyrinthine (Office of Drug Abuse Policy, 1977). In the El Paso sector, the "frontline" or primary agencies are those of the Immigration and Naturalization Service (including the Border Patrol) under the Department of Justice, Customs Service and its Patrol in the Treasury, and offices of the Department of State (including a consulate in Juárez). The Treasury Department also has offices of the Bureau of Alcohol, Tobacco and Firearms (BATF) and the Secret Service here. The Fish and Wildlife Service and the Parks Service in the Department of Interior have border responsibilities, as do the Departments of Agriculture and Health and Human Services in inspecting for plant and human disease. Even the Federal Aviation Administration keeps an eye on the border. The military base at Ft. Bliss takes responsibility for its personnel who cross into Mexico, and may lend a hand to other agencies (providing facilities for Customs Patrol planes, for example). A major element of border control is assigned to the Drug Enforcement Administration. DEA operates the Rio Bravo Task Force, which includes city narcotics police, in El Paso itself. Of greater significance for the entire 2000-mile border is the El Paso Intelligence Center (EPIC), which DEA established in August 1974 and now operates jointly with INS, BATF, Customs, FAA and the Coast Guard. Its major goal is to gather all available data about the border that might be relevant to narcotics smuggling, by pooling and disseminating information from all federal agencies. In late 1977 the head of DEA determined that law enforcement officials at any level should have access to EPIC information, and round-the-clock contact would be maintained. EPIC is therefore the closest approximation to a command center for the border; however, its role as such is limited both by its specialization and by its function as a communications tool only rather than as policy-maker.

Constitutionally there is no state or local authority in border policy or maintenance, as this is a federal power; for example, arrests on suspicion of illegal entry are not, in theory, made by city or county police. However, numerous state and local government agencies have border concerns. The federal government itself recognizes this in the Southwest Border Regional Commission, a federal-state body. The state liquor control board, comptroller's office, narcotics agents, and other state police keep an eye on the border for their own purposes, and they often work without the presence or cooperation of federal authorities. Various Texas labor, education, health, welfare, and judicial authorities have adopted policies toward aliens that clash with those of the federal government and with those of neighboring states as well (Corwin, 1978: 78-84, 165; Waddle, 1977). Local authorities--police, housing, school boards--are active. Surrounding this officialdom is a network of private interests: railroads, textile and clothing manufacturers, bonded warehouses and duty-free shops, commercial sales, labor unions, the Organization of U.S. Border Cities and Counties, the Catholic Conference, the League of United Latin American Citizens, and the United Fund, to name but a few of many hundreds. These groups have varying, often conflicting, preferences about the extent to which the border should be an hermetic enclosure. Some take action on their own; others are legally charged with a border role. Railroads, for example, are liable to fines for failure to prevent illegal crossings on their international bridges. One of the most quietly influential and effective is a Mexical businessman who has secured the only ICC permits for regular bus service across the bridges between El Paso and Juárez.

It is far from self-evident that a clear, coherent federal border policy exists, or is being formulated; congressional, presidential, and bureaucratic statements and actions exhibit considerable confusion (Cornelius, 1977; Garza and Cehelsky, 1979; Gordon, 1975: Reubens, 1978). Even where there is agreement, however, implementation through this cumbersome and disjointed conglomeration of agencies, lacking any coordinating or directing body, inevitably fragments policy in operation. The consequence is an apparent ineffectiveness, if not aimlessness, in all aspects of border management. As competing agencies pursue their solitary courses, numerous failures and near-failures of agency operations, both individual projects and overall tasks occur. The demoralized INS and its Border Patrol complain that the welfare apparatus, private and public, is sabotaging immigration control; field offices, such as that in El Paso, have also charged headquarters with hamstringing their officers by excessive deference to advocates for ethnic and aliens' rights. Agencies concerned with the distribution of social benefits, such as food stamps, have not felt it their job to apply limitations excluding illegal aliens, even when directed by federal administrative and judicial rulings. Local politicians have tended to demand reimbursement from the federal government for the socio-economic costs of illegal aliens, who are present as a result of federal failure to effectively police the border (Carter, 1979; Stoddard, 1979).

An examination of conflict over border management among law enforcement agencies indicates the effect of agency fragmentation upon actual policy. Every level of government has some law enforcement power and function in El Paso. There are twenty federal agencies, ranging from the tiny Fish and Wildlife Service contingent investigating animal smuggling to the 300 plus of the Border Patrol and the 500 plus Fort Bliss military police. Texas provides an office of the Department of Public Safety (including, but not limited to, the Texas Rangers) as well as policing of the campus of the University of Texas and the state lands. El Paso County patrols 1140 square miles with a sheriff's force of twenty-five, and the adjoining New Mexican Doña Ana County (also on the border) has a force of twenty-three. In the city proper the municipal Police Department is some 600 strong, with assistance from park police. Dozens of private security agencies (a few of which are nearly as large as the sheriff's office) are at work. The three major rail yards are patrolled by their own forces, the largest, the Southern Pacific, with sixteen officers.

Any and all of these agencies may find their operations affecting or affected by the border; even private security personnel, for example, may detain alleged illegal aliens whom they later turn over to the Border Patrol. Even major enforcement work has been divided, with jurisdiction over persons lodged in the INS Border Patrol (Justice) and jurisdiction over goods held by the Customs Patrol (Treasury). Moreover, any and all of these agencies may find their own work being affected by that of others.

Conflict has not infrequently been severe. This is understandable and predictable. The leadership and staff of these organizations are responsive to different constituencies, chosen by different methods, provided with widely varying amounts and qualities of training and equipment. Each agency has its own means of evaluating the work of its own personnel, and some (perhaps most notoriously the FBI) are extremely reluctant to give credit to the assistance of other agencies as a result. Those that are not primarily concerned with the border or are not federal can and do feel "disconnected" from the border policy process. Effective implementation of federal purposes on the border is not an operational priority for most.

To cite a few of the numerous failures consequent upon this: State and county police have remained aloof from DEA task force operations in El Paso, occasionally wrecking surveillance work as a result. The FBI does not work with EPIC. In turn, EPIC is still regarded as a DEA unit, and accordingly suffers from the hostility between DEA and Customs (still smarting from the loss of much power and prestige by the transfer of drug investigation work to DEA). This inter-agency bickering has hampered the work of narcotics control (and elsewhere along the border has led to actual shootouts among federal agents). It is at least a partial explanation for the failure to penetrate the weapons-for-narcotics trade, and the related suppression of reports on this traffic, even to other federal authorities such as Congress. Much of the cooperation that does occur is the result of informal understandings, mediated by social gatherings and friendships--and consequently vulnerable to change if personalities or ad hoc working agreements change.

Administrative fragmentation in border law enforcement thus has blunted the impact of border policy in one of its major aspects--*closure* of the border to unauthorized goods and persons (specifically narcotics in the discussion above). It has wider effects as well, as various agencies pursue different images of the border in their work, depending upon their mission, constituency, and personnel. Local agencies, for example, are thought by federal authorities to be far more permissive or tolerant in their views of border-crossings. All of this is a blueprint for an ineffectual border management, whether of exits or entrances, as agencies and groups of all persuasions about the border are able to work in the interstices of jumbled lines of power and responsibility, with little or no control or coordination.

POLICY SOLUTIONS: REFORM AND "RE-FORM." Essentially two, somewhat contradictory, strategies have been suggested and pursued for two different purposes. Those dissatisfied with the present state of permeability or future probabilities have urged a more restrictive policy, backed by a "re-formed" or restructured administrative apparatus. Others who favor a restrictive policy have argued that the costs of bureaucratic reorganization are too great, and accordingly prefer simply augmenting the existing apparatus with more money, personnel, or technology. On the other side are the supporters of a less restrictive or open border policy. One set would leave things as they are and simply direct implementation of a more relaxed, rights-oriented border policy. A smaller group would rather see a "re-formed" border administration, based on a new model of borderlands stressing the border as a line of contact rather than separation.

Whatever the intention, the costs of either approach to the administrative fractures can be high, as we can see in the disastrous episodes of the border fence and the proposed border management agency. The latter represents the "re-forming" strategy (Finney, 1975). The discontents among field offices, primarily in El Paso and San Diego, combined with rising local and national concern about narcotics traffic, crime at the border, and illegal immigration, led to extensive studies by the Office of Drug Abuse Policy under the Office of Management and Budget to review and recommend change in the administrative arrangements at the border. After nearly two years of work, the reports were taken up for discussion by the cabinet in 1977. In the summer of 1978, reports circulated that agreement had been reached on a rather complex plan, showing the imprint of much bureaucratic haggling.

The essence of this plan was a departmental swapping of agencies concerned with the border. INS would move from Justice to the Treasury, there to combine with the Customs Patrol; BATF would simultaneously leave Treasury to join with FBI and DEA work on drugs and firearms traffic. General visa and refugee policy would be lost by the Department of State to Justice, although review of individual applications would remain with the consular service. Not surprisingly, this proposal met with little enthusiasm. Field officers in El Paso commented with weary cynicism, pointing out quite accurately that the primary problem--lack of overall coordination and direction --would still plague the relocated agencies. Nationally a storm of protest broke as Chicano and other Hispanic activists, congressional committees overseeing affected agencies, State Department officials, INS Commissioner Castillo, George Meany and the AFL-CIO, and Mexican diplomats expressed vociferous objections to various aspects of the proposal. Management specialists pointed out that years of negotiations to sort out equipment and personnal among the shifting agencies and their sub-divisions would be required. Sometime in the late summer of 1978 the reorganization scheme died a quiet, unannounced, but unmistakable death.

More effective implementation of border control through the existing machinery was simultaneously being sought in the replacement of battered fences by new barriers of improved design. This rather innocuous scheme suffered from clumsy and over-dramatized presentation to the public at an advanced stage of the planning. The need to reduce the heavy traffic of illegal crossings in the urban areas of El Paso and San Isidro (San Diego), insofar as this contributed to rising crime and violence in those locales, was not clearly explained, and this rationale was lost to view in the subsequent campaign of ridicule against the "Tortilla Curtains." In March 1979, students in Juárez responded to this provocative debate by demonstrating against the fences; the bridges were temporarily closed by the demonstration, and a child was killed in the hysteria. Thus a program designed to assure the national public--and segments of the borderlands community--that the existing structure of border administration could enforce the existing policy led to intra-community stress and international tensions instead. Eventually the fences were built, in the summer of 1979, to a design so modified by the demands created in the earlier explosion of anger that much of the advantage of the new fences had been lost. In the meantime local and national understanding of the issues and options in border policy had been dealt a severe blow (Stoddard, 1979).

A FRAGMENTED FUTURE? This confusion may *be* policy: it is arguable that the apparent divergence between the kind of preferred border policy as enuciated in Washington and the acutality of its administration at the border is not only acceptable but sought after (Piore, 1979: 172-192). Certain preferences are given in response to pressure groups active at the center, while others receive priority on the periphery in a never-ending adjustment of the demands of domestic labor and business concerns, foreign relations issues, and borderlands interests. It then follows that the administrative fragmentation described above is the machinery best suited for implementation of such policy.

Such an approach to the border may be expedient but it is doubtful that it is prudent or advantageous. As the pressures along the border and across the border increase, the capacity of such machinery to cope becomes subject to increasing strain. The ability or willingness of the nation as a whole, and the borderlands community in particular, to accept (or even understand) the informal effective policy as opposed to the official border policy must correspondingly decline.

Any change in border policy will rest upon the will and the capacity to grapple with the administrative hydra. In turn, bureaucratic reorganization that goes beyond a mere reshuffling of a stacked deck must begin with a better understanding of the implications of various border options and a willingness to discuss and determine these choices candidly and publicly. We may, for example, choose to locate authority for the border in a single agency or official, or create a council of decision-makers from the existing agencies with border responsibilities who report to the President, or even opt for the present system. The choice must be predicated upon a particular model of the border if it is to have any impact. It is equally imperative to understand the effect of the administrative machinery upon the policy; certain choices simply cannot be effectively implemented by the existing machinery. The clearest of such incompatibilities will arise if we move toward an image of the border as both a composite of two nations and a unique cultural and political entity, which cannot be partitioned without untoward damage to the entire community. This model now appears to run counter to the thrust of international, nation-state, politics for the last two decades of the century. If, in consequence, we attempt to make the borders into hard shells, it is exceedingly probable that this model too will be found to be incompatible with the extant fragmented and permeable border apparatus.

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FEDERAL LAW ENFORCEMENT: STRUCTURE AND REORGANIZATION

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ABSTRACT

Law enforcement, a Federal concern since the inception of the national government, has dramatically increased during the past decade. Presently, more than 100 Federal agencies with a combined annual budget of $5 billion participate in police, investigative, and law enforcement activities. This collection of often-competing units, however, is characterized by fragmented authority and overlapping jurisdiction. The proliferation of units, a response to new or expanded demands, counters other objectives associated with improved coordination, efficiency, and austerity. Consequently, some types of reorganizations may be in conflict with others and other goals. Moreover, broad-scale reorganizations have proven elusive; and basic assumptions and implications about certain proposals in this and related fields are subject to serious questions.

It has been said ... of the American administrative organization that it has grown "like Topsy," that is, without plan or design.

Arthur Millspaugh (1937, p. 60),
Crime Control by the National Government

It is clear that Federal law enforcement today is uncoordinated ... Federal law enforcement policy-making is fragmented or non-existent.

President's Reorganization Project
(1978, pp. xvii-xviii)

These two conclusions, separated by more than four decades, describe a continuing characteristic of Federal law enforcement: fragmented authority and overlapping jurisdiction, dispersed among numerous and often competing entities, possessing varying degrees of independence, administrative discretion, and accountability. This characteristic presently exists in a field marked by meteoric growth during the 1970s, escalating to a point where "almost 10 percent of the civilian employees of the Executive Branch are involved" in 110 separate enforcement units with a

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The views expressed in this article are those of the author and are not attributable to any other source.

combined annual budget of $5 billion (President's Reorganization Project (PRP), 1978, p. xviii). Although other functional areas have experienced rapid growth, proliferation, and fragmentation, Federal law enforcement is an archetype of such conditions. The first comprehensive survey of this phenomenon was conducted by the President's Reorganization Project in the Office of Management and Budget.[1] The results have implications for massive reorganization and reform efforts.

Moreover, major agencies in law enforcement, especially the Federal Bureau of Investigation (FBI) and the Internal Revenue Service (IRS), have been subject to political manipulation, abuse of authority, and illegal and unethical conduct (U.S. Congress, Senate, Select Committee to Study Governmental Operations With Respect to Intelligence Activities, 1976). At the same time, the entire Federal establishment has experienced increased demands to expand and improve its efforts against several fields of criminal conduct including white collar crime, government corruption and fraud, arson, illegal immigration, drug trafficking, and terrorism.

Flowing from this confluence of conditions and characteristics, banked by the general and pervasive theme of fiscal austerity, have been several distinct objectives for Federal law enforcement:

1. improved effectiveness;
2. expanded responsibilities;
3. greater economy and efficiency in operations;
4. prevention of abusive, illegal, and unethical behavior; and
5. increased accountability and control.

These objectives, although interrelated to some degree, are not entirely compatible with one another and have spawned numerous actual and proposed reorganizations. The truly broad-scale reorganization proposals have proven elusive, if not illusory, and are challenged by questions about their basic assumptions and implications. This article explores reorganization developments in Federal law enforcement. Emphasis is placed upon the challenges presented by particular reorganization efforts which might be applicable to other functional areas. A brief survey of the historical development of Federal law enforcement precedes that analysis.

Historical Development

The Federal presence in law enforcement is an outgrowth of the colonial experience, certain constitutional mandates, historical necessity, and practical considerations. For instance, in the 1790s, there existed certain protection and inspection activities which were designed to facilitate the performance of traditional governmental services. These included postal inspection and mail protection by the Post Office Department, anti-smuggling efforts in the Revenue Cutter Service (a predecessor of the U.S. Coast Guard), protection of customs revenues in the Treasury Department, and enforcement of internal revenue laws by the militia (e.g., the Whiskey Rebellion of 1794).

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Subsequent Federal efforts were directed against counterfeiting (Secret Service, 1865), narcotics trafficking and abuse (Narcotic Section of the Bureau of Internal Revenue, 1915), and illegal aliens (Bureau of Immigration, Treasury Department, 1891). In addition, the Federal Bureau of Investigation was organized in 1908 as a permanent executive and investigative force in the Department of Justice. (The Attorney General had been a member of the President's Cabinet since 1789 but headed no department until the establishment of Justice 81 years later.)

The novel services, activities, and functions which accrued over time to the national government resulted in specific organizational responses in different eras. A case in point is the U.S. Secret Service/Treasury Department responsibility to protect the President, a duty initiated in 1901 by an informal congressional request, in the traumatic aftermath of the assassination of President McKinley, the third murder of a President in 36 years. Congress later legitimated the protective assignment in 1906 by incorporating the responsibility in the Sundry Civil Appropriations Act for Fiscal Year 1907 (34 Stat. 708). Both of these events predated the 1908 establishment of a (Federal) Bureau of Investigation/Justice Department which otherwise might have vied for the assignment. An apparent jurisdictional conflict between the FBI and the Secret Service did occur some time later, following the 1948 codification of Title 3 (P.L. 80-771), which failed to specify the agency responsible for protecting the President. A re-codification in 1951 via Public Law 82-79, which provided basic statutory authority to the U.S. Secret Service to protect the President, among other duties, resolved the short-lived jurisdictional dispute in favor of continuing Secret Service primacy (U.S. Congress. Senate. Committee on the Judiciary, 1951, p. 3).

The Treasury Department, with its deeper historical roots, has retained its substantial collection of units. To a considerable degree, Federal law enforcement functions are auxiliary to and not easily or rationally separable from the broader functions and activities of particular parent units (Millspaugh, 1937, p. 30).

Present Characteristics

According to the survey conducted by the President's Reorganization Project task force on law enforcement (1978), Federal law enforcement efforts presently encompass 113 units, including two Legislative Branch entities (the Library of Congress Police and the U.S. Capitol Police) and the Supreme Court Police. The 110 Executive Branch units are dispersed among 30 departments and agencies with the Justice and Treasury Departments being the largest. All together the units housed an estimated 220,000 personnel and had a combined annual budget of $5 billion for fiscal year 1978.

The PRP survey also identified ten categories of law enforcement activities, crossing a wide and varied range, among the 110 executive units:

Type of Activity	Number of Agencies (and Percentage)
1. Police or preventive patrol	26 (24%)
2. Property or facilities protection/security guards	46 (42%)
3. Employment and personnel security investigations	31 (29%)

4. Other employee (internal) investigations	58 (53%)
5. Personnel protection or security	30 (27%)
6. Criminal investigation/enforcement	57 (52%)
7. Revenue or tax investigation/enforcement	7 (6%)
8. Regulatory investigation/enforcement	60 (55%)
9. Other civil investigation/enforcement	37 (34%)
10. Other law enforcement	27 (25%)

An even more graphic illustration of the shared nature of law enforcement jurisdiction and responsibilities is provided in a selective listing of different law enforcement duties and the pertinent agencies.

1. Protection of public officials and visiting foreign dignitaries is the duty of the Secret Service, including the Uniformed Division; U.S. Marshals Service; Federal Protective Service; FBI; Treasury Security Force; and State Department Office of Security.

2. Combating organized crime is in the hands of the Organized Crime Strike Forces/Criminal Division of the Justice Department. This incorporates elements of the IRS, Securities and Exchange Commission, Immigration and Naturalization Service (INS), and Labor Management Services Administration of the Labor Department.

3. Civil disorder control is handled by the FBI, U.S. Army, U.S. Marshals Service, and, on Indian reservations, by the Bureau of Indian Affairs/Interior Department.

4. Anti-terrorism falls under the jurisdiction of the interagency Working Group to Combat Terrorism which is responsible to the Special Coordination Committee of the National Security Council and includes 29 separate units among which are the FBI, INS, and other Justice Department entities; Federal Aviation Administration and U.S. Coast Guard in Transportation; U.S. Secret Service and Customs Service in Treasury; U.S. Army units and National Security Agency in the Department of Defense; Office to Combat Terrorism/State Department; Federal Protective Service and Federal Preparedness Service in the General Services Administration; and the Central Intelligence Agency (CIA).

5. Security of Government property and buildings is the responsibility of the Federal Protective Service, U.S. Postal Service, U.S. Marshals Service, Treasury Security Force, Uniformed Division/U.S. Secret Service, and various guard units associated with the Veterans Administration, Smithsonian Institution, Tennessee Valley Authority, and the several Armed Forces.

6. Combating air piracy is the duty of the FAA, U.S. Marshals Service, and Department of State.

7. Violations of marine and wildlife law are dealt with by the U.S. Fish and Wildlife Service, U.S. Coast Guard, U.S. Park Police and Park Rangers, Armed Services units, and Bureau of Land Management units.

8. Criminal antitrust allegations are handled by the Criminal Division/Justice Department, Securities and Exchange Commission, and Federal Trade Commission.

9. Federal personnel security clearances are conducted by the FBI, Bureau of Personnel Investigations/Office of Personnel Management, Defense Investigative Service/Department of Defense, and certain intelligence agencies.

10. Training of law enforcement personnel is the duty of the FBI, Federal Law Enforcement Training Center/Treasury Department, and various individual units elsewhere.

11. Enforcement of laws affecting illegal aliens, including illegal immigration, public assistance, and labor falls under the authority of the INS, Social Security Administration, Department of Labor units, and IRS.

12. Border patrol, management, and law enforcement are the responsibilities of the U.S. Customs Service/Treasury; INS Border Patrol; Drug Enforcement Administration (DEA)/Justice; Public Health Service/Department of Health and Human Services; Animal and Plant Health Inspection Service/Agriculture; Fish and Wildlife Service/Interior; and U.S. Coast Guard/Transportation (U.S. Attorney General, 1977).

In addition to the significant jurisdictional overlap, it is important to note that these law enforcement units vary in their degree of authority, source of establishment (statute, executive order, administrative directive), methods of personnel selection and training, and contracting authority. There exists notable variety even within particular units. (See, inter alia, PRP, 1978; U.S. Attorney General, 1977; U.S. General Accounting Ofice, 1977, 1978.)

Reorganization Developments and Recommendations

During the past decade, there has been a proliferation of police, investigative, and security agencies at the Federal level, with a corresponding escalation in budget and personnel reflecting both direct Federal employees and private contract hirings. In fact, "over one-third of the 113 agencies surveyed [by the President's Reorganization Project] did not exist at the beginning of 1970" (PRP, 1978, p. xviii). The new agencies were created through a variety of mechanisms, including legislative enactments, reorganization plans, and administrative directives under executive or congressional prodding.

Executive Initiatives

The Drug Enforcement Administration (DEA) was established in the Justice Department in 1973, to provide a leadership role and consolidation in the enforcement of Federal narcotics and dangerous drug suppression programs. Under the Nixon Plan, DEA was designed to provide higher visibility and priority for a specific law enforcement concern. Yet it has been criticized for not effectively performing its mission, failing to reduce drug trafficking appreciably, and exacerbating conflict with related agencies.

Along with the goal of consolidating drug-trafficking enforcement in Justice, the 1973 reorganization was designed to improve port-of-entry inspections to counter illicit trafficking via increased resources and authority for the U.S. Customs Service in Treasury. However, that phase of the plan met with serious opposition in the Congress which later repealed the relevant provision (88 Stat. 50). Congressional opposition focused upon the perceived adverse effects of yet another entity, the Immigration and Naturalization Service in the Department of Justice. A congressional report noted the heritage and near-disastrous consequences for Customs:

> That part (of the Plan) sought the integration of inspection activities . . . at ports-of-entry, and would have involved the transfer of approximately 900 agents from INS to the Customs Service . . . . (T)here was considerable opposition . . . by union representatives of the INS employees. Their concern, shared by many Members of Congress, was that removal of so large a complement of INS employees would adversely affect morale and make even more difficult the efforts of that under-staffed agency to cope with illegal alien traffic . . . . The employee organizations involved were not fully consulted; and in consequence, awkward arrangements had to be made for concessions and compromises after the plan was submitted, including the enactment of legislation to repeal an important part of the plan . . . . In this respect, the Customs Service suffered rather heavily . . . (losing) its intelligence and investigative functions relating to the suppression of illicit traffic in narcotics, dangerous drugs, and marihuana . . . . The transfer . . . was a heavy blow to Customs, particularly because of the public prominence and congressional support given to drug abuse control efforts . . . (U.S. Congress. House. Committee on Government Operations, 1974, pp. 4, 19-20).

Customs' response to these developments was to "deploy a uniformed force of customs patrol officers . . . along with Mexican border . . . to shore up depleted resources for interdicting contraband (including drugs)" (U.S. Congress. House. Committee on Government Operations, 1974, p. 2). This action, in turn, provided the catalyst for a congressional request to the Office of Management and Budget (OMB) to assess the situation in the interest of "eliminating unnecessary duplication and effecting better coordination" (p. 3). OMB, however, went beyond that original request, developing a plan for Customs to be the lead agency to " 'implement a test of single-agency management of Mexican border ports' " (p. 4). The House Government Operations Committee, reviewing these actions, found that the OMB plan "was not well-advised" (p. 28) and questioned the authority of OMB or the President to erect a "test case" in light of the repeal of the relevant portion of the 1973 reorganization plan.

This episode demonstrates not only the shared responsibility for reorganizations, even those emanating from the White House, and their eventual disposition, but also the multiplicity of avenues of influence which can serve to defeat, delay, modify, or resurrect certain proposals. As an epilogue to the 1973-74 developments, President Carter's Reorganization Project (1977), concurring with the findings of an interim General Accounting Office study on illegal entry at the United States-Mexican border and with an Office of Drug Abuse Policy study on illicit drug trafficking, issued a series of border management reorganization options, primarily affecting Customs, INS, DEA, and the Coast Guard. This effort, four years after a parallel proposal from the Nixon Administration, failed to clear the White House, despite the impressive studies and recommendations advocating consolidation and major realignments of border management/law enforcement units and the public posture of the President favoring Executive reorganization for improved efficiency. The Carter Administration in 1977-78 discovered the same political realities that the Nixon Administration had in 1973, as statutorily articulated in a FY 1979 Justice Department Authorization Act (P.L. 95-624) provision prohibiting any such funds from being used to transfer border control activities from INS to other agencies or departments (See also

Carter, 1978). In addition to this concern from the House Committee on the Judiciary, members of the House Foreign Affairs Committee challenged the transfer of the visa service from the State Department to INS as another part of the same reorganization; and some members of the House Select Committee on Narcotics Abuse and Control questioned the impact on drug trafficking enforcement (personal interview).

Other Executive initiatives, more modest in scope, have had greater success in implementation than those affecting border patrol, management, and other broad areas. A number of internal transformations in the Justice Department, under Attorneys General Levi and Bell, have established units designed to investigate and curtail abuse of office, illegal and unethical conduct, and political manipulation of Justice units. This was a manifestation of the "Watergate" and intelligence community abuses revealed during the 1973-76 period. These new units included, among others, an Office of Professional Responsibility; a counterpart office in the FBI as part of a new Division of Planning and Inspection; a Public Integrity Section in the Criminal Division; an Investigations Review Unit to monitor the Attorney General's guidelines for FBI domestic security investigations; and a Special Counsel to investigate President Carter's family peanut warehouse business. DEA and LEAA regional offices have been subject to periodic reorganizations. Under the authority of the Attorney General, operation of the National Central Bureau/INTERPOL, which coordinates all INTERPOL requests in the United States, was assigned to the Justice Department. This was a transfer from Treasury where it had resided from 1958 until 1977. Finally, an Office for Improvements in the Administration of Justice was created early in the Carter Administration, although other proposals have languished. A particularly quixotic or nefarious option, depending upon one's viewpoint, was the merger of DEA and the FBI, ostensibly designed to improve drug enforcement effectiveness and efficiency. It goes without saying, that option did not rise above the trial balloon stage.

The threat of terrorism — domestic, transnational, and international — has evoked a reorganization of the Executive Office structure. A still-classified Presidential Review Memorandum (PRM) 30, dated June 2, 1977, assigned the anti-terrorist functions to an interagency Working Group to Combat Terrorism. This group was headed by the State Department's Director of a counterpart office with the Deputy Attorney General being second in command. The Working Group, representing 29 Federal units, replaced the Cabinet Committee to Combat Terrorism which was established in 1972 by President Nixon in the aftermath of the Munich Olympic terrorist incident. However, that former high level group reportedly met only once in the interim. Its successor, which does meet regularly, lacks command authority and operates instead as a coordinating mechanism directly responsible to the National Security Council Special Coordination Committee which is chaired by the President's Assistant for National Security Affairs (U.S. Congress. Senate. Committee on Governmental Affairs, 1978). A related development is the creation of a special military unit, combining the four Armed Forces. This unit is designed to provide a full-time capability for dealing with terrorism against U.S. citizens and property abroad.

Other Executive office directives have concentrated upon fraud and abuse in Government. OMB Director McIntyre in late 1978 ordered the heads of 90 agencies which lacked an inspector general to designate an official to oversee efforts to combat waste, fraud, and corruption. This order followed revelations of serious contract violations in the General Services Administration (GSA) which had created a special counsel's position to coordinate its internal investigation and the statutory establishment of offices of inspector general in 12 Federal agencies. Along these same lines, President Carter approved a series of recommendations to deal with Government corruption and fraud. These recommendations included heightened investigative units and protection of "whistle-blowers" who expose criminal conduct.

Many of these Executive initiatives in response to a law enforcement problem — terrorism, government corruption, misconduct among law enforcement officials and agents — followed public revelations about the problem and some congressional consideration of alternatives and re-structurings. Thus, even though the organizational innovations were ordered by the Executive, they may well have been prescribed elsewhere or were anticipated reactions, viz., changes in the Executive to comply with projected reorganizations from the Congress.

Congressional Initiatives

Congress has served as more than an incubator or modifier of Executive reorganizations affecting law enforcement. Its influence has been direct and formal, not simply indirect and informal. One recent example is the statutory establishment of offices of inspector general in 12 Federal agencies and departments (P.L. 95-452) in 1978. These consolidate internal auditing and investigative responsibility within those agencies, increase the authority of such offices, and provide for regular reporting to Congress about their operations and discoveries. The new officers are subject to Senate confirmation and are high ranking, thus contributing to their independence. The 1977-78 congressional proposals for the 12 inspectors general coincided with revelations about the GSA scandal. The GSA lacked a comparable office and was a prime candidate for one. Nonetheless, the scandal served more as a precipitator to final approval than as an initial causal factor. The 1978 Inspector General Act is a modification of predecessor enactments: i.e., P.L. 95-91 (Department of Energy), 94-505 (Department of Health and Human Services), P.L. 96-88 (Department of Education), P.L. 96-294 (U.S. Synthetic Fuels Corporation), and P.L. 96-465 (State Department and Foreign Service). In spite of opposition from the affected departments and agencies, there have been 17 IGs statutorily established since 1976. This legacy of opposition has recurred with attempts to create such positions in the Defense and Justice Departments (U.S. Congress. House. Government Operations, 1980).

In other action, Congress approved the Ethics in Government Act of 1978 (P.L. 95-521), an outgrowth of the "Watergate" investigations of 1973-74, providing for financial disclosure of high ranking Government officials, an Office of Government Ethics, and appontment of a special prosecutor under given conditions. An important caveat of the Act allows for members of the House or Senate Judiciary Committees to request the Attorney General to appoint a special prosecutor in the event he does not act independently. Calls for a special prosecutor under this Act, although not formally approved by the committees, were made with regard to the investigation of the Carter family peanut warehouse, helping to clarify and expand the authority of the "special counsel" who had already been appointed to the task.

This same statute, P.L. 95-521, added a potential control over any future Justice Department reorganization affecting the Public Integrity Section, the unit responsible for supervising investigations and prosecutions of public officials and Government officers. The conference committee report, which resolved differences between House and Senate versions of the legislation, included an unusual consultation directive to the Attorney General:

> The conferees expect the Attorney General to consult with the Judiciary Committees of both Houses of Congress before substantially altering the scope of authority or mandate of the Public Integrity Section of the Criminal Division (U.S. Congress. Committee of Conference, 1978, pp. 79-80).

Another prominent congressional action has been the increased use of annual authorizations for Justice Department entities and programs. A provision to apply the requirement to the entire Justice Department became effective in October, 1978, via P.L. 95-624. At that time, Rep. Peter Rodino (1978, p. H13020), Chairman of the House Judiciary Committee, which reported both the requirement and the actual authorization, remarked that "Congress enacted [this statute] ... largely because the Judiciary Committee believed it could not adequately or responsibly discharge its oversight responsibilities without the lever of budgetary authorization." The Justice Department Authorization Act also incorporated novel reporting requirements and reprogramming controls which have the same oversight objective.

Other congressional action affecting Federal law enforcement structure includes reorganization of LEAA and hearings on bills to restructure anti-terrorism offices, intelligence agencies – including the FBI, IRS, and drug enforcement units. Furthermore, oversight hearings on the FBI, IRS, Secret Service, and other agencies have become more regularized than in the past. One such set of hearings, conducted by the House Subcommittee on Immigration from 1977 to 1979, focused on INS deficiencies in investigating and prosecuting alleged Nazi war criminals. As a result of this problem, the duty was transferred from INS to a new Office of Special Investigations in the Criminal Division of the Justice Department. Another set of investigative hearings, in this case conducted by the Senate Appropriations Subcommittee on the Legislative Branch, in 1978, examined Government fraud. At the request of Subcommittee members, the General Accounting Office, the investigative and audit arm of the Congress, established a Task Force for the Prevention of Fraud and instituted a "hotline" to receive complaints of misconduct. Finally, even Executive proposals for reorganization might have a congressional recommendation behind them. President Carter's proposed statutory charter for the FBI had been recommended by both a House and a Senate Select Committee, upon conclusion in 1976 of their year-long investigation into intelligence agency abuses.

Several of these legislative initiatives which resulted in law enforcement reorganizations were the actions of a relatively few strategically located congressmen, operating in a receptive environment. The 12 offices of inspector general were sponsored by the committee and subcommittee chairmen who would have jurisdiction for the bills. The Office of Special Investigation's assumption of former INS duties occurred in the aftermath of criticisms of the latter by the chairperson of the subcommittee overseeing INS. The creation of a GAO special task force came at the insistence of several Senators from the Appropriations Subcommittee which controls GAO's funding. In these instances, there was minimal concerted opposition or controversy, appropriate visibility for the issue, and compatibility of the reorganization with other objectives, i.e., increased accountability and control by the Congress, improved effectiveness of operations and services, and prevention of illegal conduct, especially fraud. In terms of recent congressional initiatives, improved economy and efficiency among law enforcement agencies, either through consolidations or reduced assignments, have not been high priority objectives. In fact, most of the recent reorganizations effected by Congress have a contrary impact in an immediate sense — preventing consolidations, as with a border management agency, and/or increasing units, personnel, and budgets. Even the new offices of inspector general, which did consolidate existing audit and investigative offices, were proffered as mechanisms to exact stronger controls and effect savings in program budgets and expenditures, not to reduce the costs associated with the inspector general offices themselves. President Carter (1978), aware of these priorities in October of 1978, pledged "to add at least 100 inspectors and auditors to the general services agency next year as rapidly as possible," when signing the legislation to create inspectors general in 12 agencies, including the GSA.

Finally, these and other reorganizations and reforms (a) had precedents, as with the inspectors general and Justice Department annual authorizations; (b) prompted relatively modest or virtually self-effecting changes, as with GAO's special task force; or (c) were straightforward and uncomplicated responses to a perceived problem, again as with the Inspector General Act of 1978. More controversial and innovative transformations, e.g., the Ethics in Government Act of 1978, required a substantially longer gestation period and/or significant compromises before reaching fruition. For instance, the final version of the Ethics in Government Act, which had been debated over three Congresses, omitted a proposed Office of Government Crimes. The legislative charters for intelligence agencies, including IRS, Secret Service, and the FBI, have been advanced since 1976. Passage has been delayed (if not aborted) by the complexity and controversy surrounding the bills, as well as by the preliminary and partial transformations (e.g., the Attorney General's guidelines for domestic surveillance and Presidents Ford's and Carter's executive orders) which might have diffused some of the intensity favoring more immediate and comprehensive legislative reforms.

Reorganization Assumptions and Implications

The passage, modification, or defeat of any particular reorganization depends upon more than simple power politics, and the final outcome generally reflects a variety of independent and intervening variables. One of President Carter's reorganization proponents, OMB Associate Director Peter Szanton (Note 1, p. 2566) recognized that complexity and the absence of governing frameworks in the midst of formulating options based upon PRP studies:

> Reorganization is a very difficult game to play . . . intellectually . . . bureaucratically . . . politically. There is no science of reorganization.

Difficulties arise because of differing priorities and conflicts among objectives. They also arise because of challenges to basic assumptions and the implications of certain reorganization proposals.

Consolidation Criteria

What criteria should be adopted for consolidating law enforcement agencies? The number and identity of agencies affected by a reorganization will vary depending upon the specific criteria advanced. The use of jurisdictional responsibilities (e.g., border patrolling and inspection) and types of activities (guard and property protection, criminal investigation, personnel and security investigation) as possible guidelines has been suggested. However, both have possible limitations and weaknesses.

Broad consolidations based on type of activity might remain incomplete if existing units within a category require continued independence. For instance, certain intelligence agencies have insisted on the need to maintain their own immediate security and investigative forces because of the sensitive and confidential nature of their missions. In other areas, the integrity of departmental programs might be affected if they did not retain their own internal investigative and security capacity (inspector general, personnel investigation, and/or property protection). Denying that capability (as through consolidation of various personnel investigation units or the transfer of authority for property protection) would reduce the agencies' program effectiveness and further disperse responsibility for their operations.

Other considerations surround jurisdiction-based reorganizations. As one example, the consolidations of the eight units involved in border inspections and management might improve the immediate task of border control and patrol. However, there may be unintended or latent costs. Since the parent agencies would lose only part of their total jurisdiction to a new border patrol agency, they subsequently would have to enlist the assistance of an additional service (i.e., the newly consolidated unit), rather than their own personnel assigned to the vicinity, to perform their continuing missions in other jurisdictions. How cooperative would such a new agency be? Would its priorities and responsiveness be compatible with the missions of the various agencies, such as DEA, Customs, and INS, from which its personnel, authority, and tasks would have been reassigned? Would drug-trafficking control improve overall as well as at U.S. borders and, if so, would there be a cost to other anti-smuggling efforts by a new agency?

Specific Agencies

Diverse factors including consolidation criteria affect which specific agencies might be included in particular reorganizations, consolidations, transfers, or reassignments. Those factors include how extensively an agency is involved in law enforcement and, possibly, the constitutional or legal status of the agency.

For instance, several independent regulatory commissions, especially the Securities and Exchange Commission and the Federal Trade Commission, perform major law enforcement activities in addition to their regulatory duties. Reassigning their investigative and enforcement duties to another agency raises questions about the independent status of such regulatory units.

Another example of the difficulty of identifying eligible agencies centers on "Capitol Hill": the vicinity of the U.S. Capitol, the Library of Congress, and the Supreme Court. Each is protected by its own independent police unit, as well as by the District of Columbia police force. Combining such units, a highly unlikely prospect, intrudes upon the "separation of powers" of the parent institutions, their independence, and differing responsibilities, even though it may result in greater economies and efficiencies.

Law Enforcement as an Auxiliary Function

To what degree is law enforcement an auxiliary (Millspaugh, 1937, p. 30), rather than a primary, function of an agency? The more auxiliary the function, the less susceptible it is to removal and transfer.

In many instances, law enforcement is an auxiliary and incidental function and the personnel assigned to law enforcement duties perform other nonenforcement activities. In such cases, removing law enforcement might not reduce the staff or budget associated with the existing agency or, at least, not as appreciably as perhaps anticipated. For instance, Coast Guard and Customs Service law enforcement activities are largely auxiliary to and intertwined with their other multiple functions, including national security and customs duty collection, respectively. Removing law enforcement would not terminate the need for similar staff and facilities to perform the other functions. Moreover, if such auxiliary law enforcement were assigned to a new agency, it would have to duplicate much of existing facilities, equipment, staff, and training that would remain with the former agency.

Implications for Democratic Government

What are some of the significant implications of law enforcement reorganizations for democratic controls over and accountability of law enforcement operations, programs, and agencies? Presently, since law enforcement power is dispersed among numerous, frequently competing agencies, actual responsibility for activities and operations is similarly dispersed throughout the Executive Branch, as is accountability.

Certain consolidations would reduce competition from other organizational units with rival expertise in making policy recommendations or operational proposals. Significant expansion of one agency's authority or jurisdiction, as with the option to merge DEA with the FBI or to centralize personnel investigative power in a single agency, harbors serious problems for a democracy. The former option would produce an agency with unprecedented resources and authority whose director would possess a unique administrative position in the Federal Government.[2]

Finally, mergers, consolidations, transfers, and reassignments, if far reaching, would be likely to affect congressional committee jurisdictions. For instance, the proposal in Reorganization Plan 2 of 1973 to transfer INS personnel to Customs and the subsequent OMB plan for Customs to be the lead agency for border-port management would have resulted in realigning congressional committee domains through transferring relevant operations and activities jurisdiction from the Judiciary Committees to the House Ways and Means and Senate Finance Committees whose province includes the Customs Service. More than "turf" and the "territorial imperative" are at stake in such a jurisdictional realignment. The change would affect the authorization process, workload, oversight priorities and activities, and the expertise of the pertinent committees.

Congressional Role

What is the role of Congress in Federal law enforcement reorganization? The role depends upon the type and extent of the proposals as well as the formal mechanisms utilized. Legislative review and oversight of any reorganization or recommendation, even if exclusively implemented by the Executive, are legitimate congressional responses. Examples are the continuing inquiries, beginning in 1974, of the FBI's domestic surveillance program and structure by the House Subcommittee on Civil and Constitutional Rights (1978) and the examination of Justice Department internal investigation policies and organizations by the House Subcommittee on Government Information and Individual Rights (1976). Subsequent authorizations and appropriations of agency and program budgets provide another channel for congressional "ratification" or modification of exclusively executive initiatives.

Broad-based and extensive reorganizations, involving cross-agency transfers of functions, duties, and resources, would require direct congressional participation, through either statutory enactment or concurrence in executive reorganization plans. The prevailing reorganization plan authority (i.e., the Reorganization Act of 1977, P.L. 95-17; 91 Stat. 29) permits either chamber to pass a resolution of disapproval preventing the plan from taking effect. Congress is limited in the time available for its deliberations and precluded from amending such reorganization plans, but the President's proposed plans must conform to certain purposes designated by Congress.

Although no present law enforcement reorganization plans have been offered under this authority, a proposed unification of border patrol units from Customs, Coast Guard, and Immigration was advanced as early as 1932 under similar authority. President Hoover (1932, p. 251), during the final months of his administration, recommended a series of reorganization plans, such as border patrol unification, in order to "simplify the procedure in handling violations of the law and . . . (to) work toward a more effective enforcement." The House of Representatives rejected that plan, along with the others, although it, but not the Senate, had approved the same concept (i.e., unified border patrol) two years earlier in proposed legislation. The establishment of DEA in 1973, discussed above, demonstrates Congress' capacity to extract concessions and to amend a presidential reorganization plan, after approval, via subsequent legislation. Reorganization by statute permits initiative, modification, and lengthier and more extensive deliberation on the part of Congress. In addition, potential jurisdiction for law enforcement reorganization proposals would not be limited to the House Government Operations and Senate Governmental Affairs Committees, as required under the Reorganization Act of 1977. That greater congressional role was evident in the Inspector General Act of 1978.

Intergovernmental Impacts

What are the impacts on intergovernmental relations and on subnational governments as a result of Federal law enforcement reorganizations? Reorganizations and reforms affecting existing relations with State and local units (e.g., LEAA structure, programs, and operations; FBI technical assistance; technology transfer; and shared or concurrent jurisdictions) might have a manifold impact. Some areas of consideration are: (a) the capability of subnational government units to accept new or expanded law enforcement responsibilities if the Federal role is reduced; (b) the type of Federal assistance — technical, financial, informational, administrative, training — which might be requested to compensate for the absence of direct Federal responsibility; and (c) the effects on existing structures and procedures, such as State criminal justice planning agencies, computerized information exchange programs, and block-grant approaches and procedures. Expansion of Federal criminal law and subsequent organizational changes, such as would occur under proposed arson control legislation, would also result in new or at least modified relations between Federal units and State and local entities which previously held exclusive jurisdiction.

Intelligence Community Reorganizations

How extensively will Federal law enforcement reorganizations interrelate with changes in the U.S. intelligence community? There are likely to be substantial and significant impacts of law enforcement reorganizations or restructurings on the intelligence community, and vice versa, because of the extensive overlap of the two establishments. Numerous law enforcement agencies, typified by the FBI, IRS, and DEA, perform intelligence functions. At the same time, intelligence agencies frequently maintain their own law enforcement units (e.g., in personnel investigations, guard, and security activities).

Recommended reduction in Central Intelligence Agency employee investigations demonstrates the interrelationship. The President's Commission on CIA Activities within the United States (1975, pp. 165-166), in examining the CIA Director's authority to protect intelligence sources and methods from unauthorized disclosure, advised continuation of similar CIA investigations "unless their principal purpose becomes law enforcement or the maintenance of internal security . . . (and if they are confined to) persons presently or formerly affiliated with the Agency, directly or indirectly." The senate select committee on intelligence (1976, p. 103) was more critical of CIA behavior than the presidential commission, basing its judgment on the prohibition against the

Agency to perform "internal security functions." The committee chastized the Agency saying: "The CIA never went to Congress for a clarification of this ambiguity (between protecting against unauthorized disclosures and the prohibition against internal security functions), nor did it seek interpretation from the chief legal officer of the United States — the Attorney General — except on the rarest of occasions." Representatives of the Secret Service, as another example, have complained that restrictions on FBI domestic intelligence operations have resulted in a corresponding decline in the quantity and quality of intelligence the Service receives for its protective responsibilities (personal interview).

A final illustration of the interrelationship between law enforcement and intelligence community restructurings is President Carter's Executive Order 12036, 1978, governing U.S. intelligence activities. That order expressly permits assistance to law enforcement agencies, despite other restrictions, including:

- Cooperation . . . for the purpose of protecting the personnel and facilities of any agency within the Intelligence Community;
- Participation in law enforcement activities . . . to investigate or prevent . . . international narcotics production and trafficking, or international terrorist activities; or
- Provision of specialized equipment, technical knowledge, or assistance of expert personnel . . . when lives are endangered, to support local law enforcement agencies . . . .

Law Enforcement Reorganization Costs

What are the probable costs associated with a particular law enforcement reorganization and how accurately and reliably can they be computed? The expenses of any reorganization include not only the direct, tangible costs associated with reassignment and movement of personnel, development of new or improved personnel selection and training methods, equipment, facilities, and attendant administrative costs, but also indirect, intangible costs. The House Committee on Interstate and Foreign Commerce (1977, p. 5-6), in its report on the Controlled Substance Act extension, reflected concern for the latter expenses when it questioned any prospective merger of FBI and DEA:

> Employee morale and program continuity and stability may be adversely affected by frequent agency mergers and reorganizations of agencies. Different approaches in agency focus, strategy, and methods of operation are often incompatible with the merger. The Committee has received resolutions [from] the Major Cities Police Administrators and the California State Sheriff's Association in opposition to a merger of the DEA and the FBI and has also received adverse comments . . . (i)n view of the potential adverse impacts of a merger and reorganization of DEA and the FBI upon our nation's drug abuse law enforcement and regulatory strategy . . . .

Some reorganization projections may have been abandoned because the anticipated costs were too great or the reorganization would not have resulted in cost savings. Periodically, there has been interest in consolidating the multiple Federal guard units under the Federal Protective Service, the largest such entity and the major protective force in the General Services Administration. However, proposals to effect that consolidation have not progressed beyond the draft stage, despite the apparent need to standardize and professionalize the numerous existing units.[3] One explanation for the hesitancy is the projected cost. There would be a substantial increase because of improved and lengthened training programs, higher qualifications for appointment and promotion, increased benefits and salaries, and possibly greater reliance on Federal employees (which would result in a corresponding reduction in contracting out to private security firms). Consequently, the proponents' ardor has been tempered by the realities of projected escalated budgets and Federal employee levels.

Intertwined with this explanation is the necessary, but still lacking, support from members of the Senate Governmental Affairs Committee, the locus of power for any consolidation of Federal guard units. That Committee has had a full agenda and other priorities — ranging from regulatory reform to anti-terrorism proposals to all Presidential reorganization plans, among other subjects. Moreover, a likely proponent of Federal guard-force unification, Senator Charles Percy, who had commissioned the 1975 GAO study of Federal police and guard activities (U.S. Congress, Senate, Committee on Government Operations, 1975), may well have developed more constituent-oriented priorities, vis-a-vis national reorganizations of dubious savings, following his narrow reelection in 1978.

Concluding Comments

The rapid proliferation of Federal law enforcement units and the corresponding expansion of personnel and budgets during the 1970s continue apace as a result of both congressional and executive initiatives. Moreover, even where there is a legitimate claim of increased efficiency, economy, and effectiveness the obstacles to consolidation, especially inter-departmental and inter-agency mergers, are enormous. A pointed illustration is the aborted border management reorganization. This was conceived on numerous occasions but never reached birth. The difficulties encountered in broad-based, extensive realignments and consolidations include different, and possibly competing, objectives among the principles as well as entrenched interests which oppose relocation. These differences are found both immediately among agencies and representationally among congressional committees. Furthermore, the Federal system of multiple channels of influence — within the Congress and the Executive — are exposed in such a process, providing access for numerous organized interests, bureaucratic entities, congressional committees and subcommittees, and individuals to delay, modify, or defeat the original proposal. Other consolidations, as with a prospective unification of Federal guard units, encounter the additional handicap of projected costs outweighing expectedly marginal benefits, at least in an immediate sense.

Successful transformations have been those confined to a single agency, for the most part, which have had evident benefits — politically and financially — as with the offices of inspector general. Improved effectiveness (in combatting Government corruption, for instance), increased visibility (for the congressional sponsors as well as the effort itself), clarified lines of responsibility (a single office vis-a-vis the previous dispersal and decentralization), and enhanced congressional oversight of agency programs and activities (through regularized reporting requirements and the officers' confirmation) are some of the more prominent anticipated compensations which would more than offset the additional expenses in personnel and budget.

As another theme of this analysis, it appears that Congress has become an increasingly important factor in law enforcement reorganization, as an initiator (e.g., inspectors general, special prosecutor, Office of Government Ethics), modifier (e.g., the 1973 reorganization plan), and opponent (e.g., border management). A number of the transformations emanating from Congress have had the cardinal objective of increased accountability to and control by the legislature. Those changes have accompanied similarly aimed restructurings of congressional-executive relations, via increased annual authorization and reporting requirements, as well as prior consultation provisions imposed on new or pre-existing law enforcement entities. There also have been internal legislative changes to improve oversight. Examples include: the continuing House and Senate Select Committees on Intelligence which also oversee and handle legislation and authorizations for some law enforcement entities, such as the IRS and FBI, as well as law enforcement responsibilities related to intelligence agencies. Illustrative of the latter is the determination of the Senate Select Committee on Intelligence to investigate the death of a former CIA counterintelligence official, John Paisley, despite FBI and Maryland State Police interpretations that his death, a possible suicide, warranted no further inquiries (Panel in Senate, 1979).

The absence of a "science" of reorganization, based upon common objectives, frameworks of analysis, or other normative or empirical theories, has been manifested in law enforcement reorganization in two fundamental ways. One is the incremental, piecemeal approach to reorganization and the opposition to major consolidations which comes from numerous quarters. The second is the series of questions about basic reorganization assumptions and implications which challenges the integrity of particular proposals. The multi-functionality of agencies precludes easy identification and categorization of appropriate units to be consolidated, merged, or transferred. Different criteria, based upon possibly conflicting assumptions, govern the selection processes but also present serious objections and limitations. Democratic controls and accountability, as well as rival expertise in policymaking, might be sacrificed on the altar of some reorganization proposals. Moreover, the various impacts on the gamut of intergovernmental relations and the tangible and intangible costs are not easily ascertainable, provoking concerns about cost-benefit analyses and simple generalizations that reorganization results in increased productivity and effectiveness. Finally, the role of Congress varies, complicating any explanatory equation that seeks a neat, mathematical calculation of the multiple variables.

Questioning basic assumptions and implications about reorganization proposals, in the absence of a theory of reorganization, demonstrates that the process is neither unidimensional nor mono-causal. It consists of objectives beyond the standard quest for efficiency and effectiveness. These various aims may be incompatible with or clearly subordinate to others. Secondly, reorganization, operating at different levels of the executive, is determined by a multiplicity of interrelated factors, varying in importance temporally and situationally. Many of the same types of inquiries — regarding auxiliary functions, intergovernmental impacts, democratic controls, congressional committee jurisdiction — can be posed for other functional areas subject to reorganization proposals, such as education, intelligence, and consumer representation at the Federal level. The characteristics of Federal law enforcement — fragmentation, proliferation of units, rapid growth, decentralization and dispersal of authority — are not the exclusive province of that establishment. Instead, they are applicable to other functional constructs, if to a lesser degree.

Federal law enforcement reorganization, because of its underlying structure, has proven to be a non-zero sum game. There are no absolute "winners" or "losers." The recuperative power of Customs' border patrol — threatened by the periodically revived proposal to unify the border patrol elsewhere and given the serious dislocations of its personnel and mission in 1973-74 — attests to that proposition. An implication of the non-zero sum game notion is that reorganizations which are purported to be panaceas for whatever ails a given function's implementation may be illusory.

Either they may be oversold remedies with only partial corrective powers or they may be simply newly-labeled concoctions, composed of a mix of compromises and already existing formulas, and not novel prescriptions. Furthermore, at the risk of over-extending the metaphor, some purported cures may be worse than the disease. The consequences and implications of reorganizations are frequently not thoroughly examined or even considered. The possibility of dysfunctional side-effects exists.

Of course, reorganizations and proposals have numerous benefits, direct and indirect, real and symbolic. Even the threat of a reorganization may elicit the desired change in behavior. The U.S. Coast Guard, earlier found to be of limited value and uncooperative in stemming illicit drug trafficking across U.S. borders and, thus, subject to projected reorganizations (PRP, 1977), has evidently heightened its priorities and improved its visibility in this law enforcement endeavor.

The gist of these concluding remarks is that reorganization, a multidimensional phenomenon or perhaps different political phenomena, is a complex nexus of independent and intervening variables that operate in a fluid environment. The attempt here, in the absence of a governing theory of reorganization, has been to identify some of those important variables, demonstrate their variation over time and in different situations, describe several prominent transformations and recommendations, and raise questions that challenge the basic assumptions and implications of some Federal law enforcement reorganizations and proposals. It has been noted that these concerns also apply to other functional areas.

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Footnotes

1. President Carter, on June 20, 1977, directed the President's Reorganization Project (PRP) staff at the Office of Management and Budget (OMB) to initiate a "comprehensive review of all Federal law enforcement missions, tasks, and priorities" (PRP, 1978, p. i). Designated as one of four areas in need of such a review, the law enforcement study was completed in October of 1978 and published as a report supplemented by two volumes of appendices. Systematic and comprehensive surveys were sent to 113 organizations identified as having some law enforcement mission or capability and included questions about their establishing authority, budget, personnel, training programs, and activities, among other areas. Two earlier studies — i.e., the seminal analysis by Arthur Millspaugh (1937), as part of the Brookings Institution series on Government organization, and a General Accounting Office survey (U.S. Congress. Committee on Government Operations, 1975), which also provided an extensive overview — were not as comprehensive or as detailed.

2. John Elliff (1971, p. 250), examining the expansion of authority and jurisdiction of the Justice Department, also cautioned against centralization and an abnormal concentration of power.

3. There are at least 46 guard units, ranging from the Federal Protective Service, General Services Administration, to civilian guards at U.S. military installations, to small units attached to particular agencies. Each operates under different establishing authority (statute or administrative directive), powers to make arrests or carry firearms, training periods, facilities and programs, recruitment and selection processes, advancement and promotion opportunities, and contracting procedures for employing private security firms (PRP, 1978).

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FEDERAL NARCOTICS ENFORCEMENT

Reorganization and Reform

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PREFACE

Reorganization of the federal government is a perennial and controversial issue—perennial because presidents find its potential alluring, both as a management tool and a political tool, and controversial because congressional committees, relevant clientele groups, and affected agencies may find it threatening to their interests. Despite their frequent use, experience suggests that reorganizations rarely fulfill the expectations of their architects; more often they result in disillusionment and failure.

The purpose of this study is to examine why reorganizations fail more often than they succeed. There are many accounts of reorganization failures. What makes this study different is that it goes beyond an analysis of the politics and process of reorganization and examines the consequences. It focuses on the reasons why calls for reorganization are so often repeated, the common obstacles standing in the path of successful reorganization, and those factors inherent in reorganization plans that generally doom them to failure.

Chapters 1 through 4 address the questions of why presidents so willingly embrace reorganization as a welcome panacea for a variety of organizational and political ills, and why Congress, interest groups, and federal agencies are so loath to view reorganization with the same enthusiasm.

Chapters 5 through 10 offer an in-depth empirical analysis of one federal reorganization—the Nixon Administration's 1973 attempt to reorganize federal narcotics law enforcement activities (Reorganization Plan No. 2 of 1973). This detailed case study into how and why the reorganization was proposed and an examination of its consequences is included in order to begin to fill the void in the empirical literature on federal reorganization and to provide an empirical basis on which to build more theoretical explanations for the frequent failure of reorganizations to have a real impact on the activities of federal agencies. If reorganizations are to be used with periodic frequency (and there is little reason to believe otherwise), then we need to develop reasonable expectations about what reorganizations can and cannot accomplish. This book attempts to move us in the direction of a more realistic assessment of the potential benefits and costs of reorganization by coupling theoretical understandings of reorganization with empirical work.

Pat Rachal

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Chapter 8

CUSTOMS: THE UNINTENDED RESULTS OF REORGANIZATION

Every government agency has a tendency to fight for a clear and acknowledged jurisdiction over a coherent set of tasks—that is, to establish a particular domain or set of responsibilities as its own. We have seen, for example, that this desire to protect organizational autonomy was a primary cause of the repeated clashes between Customs and BNDD, with each agency determined to protect and defend its responsibilities and jurisdictions in the area of narcotics enforcement.[1]

An equally prominent tendency of organizations is to find ways of maintaining tasks that constitute an important part of the organization's ethos—the shared beliefs on the part of organization members as to the proper work and role of the organization. This inclination poses a formidable obstacle to the effective implementation of reorganization plans designed to redistribute functional responsibilities among several similar organizations. The implementation of Reorganization Plan No. 2 provides an instructive case in point: In response to the threatening losses inflicted on it by the reorganization, the U.S. Customs Service maneuvered its resources so as to remain involved in narcotics enforcement. The actions taken by Customs (and the consequences stemming from them) are also interesting and problematic for another reason; they were unintended and unanticipated by the architects of the narcotics reorganization plan.

Innovation and Change in the Customs Service

The U.S. Customs Service emerged from the reorganization proceedings in a disheveled, demoralized, and threatened state; it had lost 700 of its elite narcotics agents and support personnel to the new Drug Enforcement Administration. Even though they were still reeling from that loss and still smarting from OMB's capitulation to labor's demands (thus foreclosing the transfer of 900 Immigration and Naturalization Service inspectors to Customs), top executives of the Customs Service were determined to reaffirm their agency's responsibility for interdicting contraband along the nation's borders—an authority (unlike investigative responsibilities) that Customs had retained under provisions contained in the reorganization plan. Customs executives immediately began to reappraise the agency's entire organizational structure to determine how it could best improve its capability for interdicting contraband along the borders.

Not surprisingly, Customs undertook a massive overhaul of its internal operations in the wake of Reorganization Plan No. 2. The situation Customs found itself in after July 1973 was wholly conducive to *organizational innovation*, which will be defined here as either the adoption of a set of tasks new to the organization or the performance of old tasks in a fundamentally new way. Organization theorists hold that innovation is much more likely to occur in small and/or new organizations than in large, old ones, and in those situated in the private rather than the public sector.[2] Thus, while it may be less common for large, old-line agencies to change in a significant way, it does happen (as the Customs case shows), especially when two conditions are present —a sense of crisis and the availability of surplus resources.

An organization that encounters a crisis (defined here as an extreme change in conditions for which there exists no adequate, programmed response)[3] is apt to turn to innovation in response to perceived threats to its maintenance or autonomy. Unquestionably, Customs believed it was facing a crisis—namely, its potential elimination from the federal attack on narcotics. Prior to 1973, Customs' involvement in this effort had led to the development and nurturing of its narcotics enforcement activities in the Office of Investigation. Over time, this division had become the high-status unit within the agency, as a result both of the nature of its work (which many saw as "sexy" and "prestigious") and of the formidable resources and favorable publicity conferred on this division as the federal war on narcotics shifted into high gear in the early 1970s. Customs naturally viewed Reorganization Plan No. 2 as a threat both to its autonomy and to the high visibility it had enjoyed when more intimately involved in narcotics enforcement functions. In short, the reorganization presented Customs with a crisis, one response to which was organizational innovation. The comments of the Commissioner of Customs, Vernon Acree, illustrate the way agency officials viewed their situation:[4]

> *There was no sense in going into the corner like a whipped puppy with its tail between its legs after we lost out in the reorganization plan. It was a crisis and we felt we had to change to meet it. We still had the authority and responsibility for the interdiction of narcotics at our borders. So instead of sulking, we just decided to meet this problem head-on and be the best damn interdiction agency in government.*

The second factor that can act as a catalyst for bureaucratic innovation is the existence of *organizational slack*, which Richard Cyert and James March have described as the presence of surplus resources in an organization. Cyert and March argue that when an organization finds itself with time, money, and talent available to be funneled into new tasks, it will change, or else risk the loss of talented individuals.[5] In addition, Lawrence Mohr has shown that the favorable attitude of the boss or leader of an organization can be a key factor in an organization's decision to innovate.[6]

In the case of Customs, the agency did have existing surplus resources at hand, primarily in the form of talent and money. Commissioner Acree, in his testimony before Congress in the summer of 1974, recalled that in July 1973, the agency had approximately $25 million worth of capital investments committed mainly to enforcement activities along the southwest border. The transfer from Customs to DEA of 209 (out of a total of 286) narcotics agents who were stationed along this border left both a physical vacuum and the potential for underutilization of the capital assets already in place along the border (vehicles, sophisticated technological aids such as sensors and radar, and the like). Moreover, the phasing out of the agency's Sky Marshall program (instituted a couple of years earlier in an effort to deter air hijackings) provided Customs with a pool of individuals from which the agency's executives could select the brightest and most talented for new purposes. These individuals, combined with those investigative agents retained by Customs[7] and with patrol officers who were not to be affected by the reorganization plan, presented the agency with the perfect opportunity for a restructuring. A new, internal alignment of personnel would allow Customs to reassert its role in narcotics enforcement while remaining well within the sphere of jurisdiction authorized by Reorganization Plan No. 2.

In addition, the top leadership of Customs was favorably disposed to structural innovation. They saw it both as a means of maintaining the agency's involvement in the high-status arena of federal narcotics enforcement, and as a means of shoring up the demoralized attitude of Customs employees. Thus, immediately after the conclusion of the reorganization proceedings, Customs management set to work devising an internal agency reorganization. This action can be labeled an innovation not only because it was a response to a crisis, and not only because it took advantage of surplus resources, but also because it resulted in existing members of the organization performing new tasks in a fundamentally new way.

The Rejuvenation of the Customs Patrol Officers Force

Customs officials had to walk a fine line in devising an organizational response. Their task involved the establishment of a new set of internal activities that would not be in violation of Reorganization Plan No. 2. Moreover, the Customs executives had to be able to offer a credible policy rationale for the new activities; they had to be able to allay any fears on the part of the Immigration and Naturalization Service that Customs intended to challenge the INS for border patrol responsibility; and they had to be able to fend off the likely attacks from officials at the Office of Management and Budget who were sure to be suspicious of the Customs innovation.

Reviving a Border Patrol

The first problem Customs officials faced was to devise a means by which their agency could take full advantage of the ambiguous border jurisdictional assignments contained in Reorganization Plan No. 2. The plan definitely prohibited Customs' Office of Investigation from engaging in any investigative or intelligence activities related to narcotics unless specifically invited to do so by DEA. The reorganization plan, however, reserved to Customs the right to maintain a border presence. The language, which was included at the insistence of Customs officials and the Secretary of the Treasury, referred to the continuation of Customs' authority to search for and seize illegal drugs and to apprehend or detain individuals attempting to smuggle narcotics into the country "at regular inspection locations at ports of entry or anywhere along the land or water borders of the United States."[8]

After a series of high-level conferences, Customs management arrived at the consensus that the best way for the agency to capitalize on what narcotics interdiction authority it retained was to create a new division within Customs and to charge that unit with responsibility for interdicting narcotics *between* ports of entry. Customs decided that the most efficient method by which this could be accomplished (not to mention the one that would be least open to criticism and least likely to encounter an OMB order forbidding such action) was to use patrol officers from Customs' Office of Investigation. This force would be augmented by personnel from the now defunct Sky Marshall program and by the transfer of any special agents remaining in Customs who wished to remain involved in some form of narcotics enforcement work.

In effect, what Customs chose to do was to reestablish and rejuvenate a border patrol force, a unit whose history dated back to 1853. This unit had undergone numerous changes in the early decades of the twentieth century, culminating in the official disbanding of the force in 1948. The "Southwest Border Patrol," as it was called in the 1940s, was dissembled and its personnel transferred to other parts of Customs in 1948, primarily as an economy move in response to recommendations contained in a report prepared by the management consulting firm of McKinsey and Company.[9] The title of "customs patrol officers" was continued after 1948, despite the fact that the border patrol was no longer a distinctive entity within the agency. Instead, the customs patrol officers (or CPOs) were placed mostly in Customs' Office of Investigation. Their role eventually evolved into one of apprenticeship to the special agents, with the hope that someday these junior officers would move up into the more elite ranks of the special agents. Aside from backing up both special agents and Customs inspectors at ports of entry, the patrol officers also had responsibility for running the agency's air program, the purpose of which was to interdict suspicious, low-flying aircraft entering U.S. airspace from Mexico.

A Policy Rationale for the New Patrol Force

Once Customs had developed plans for its new border enforcement activities, agency officials had to be prepared to defend the move with a persuasive policy rationale. Their argument was that the establishment of the new division was an effort to strengthen the agency's ability to intercept contraband, particularly along the southwest border. Led by Commissioner Acree, Customs executives argued that the loss of some 700 agents and support personnel to DEA severely depleted the manpower force available to Customs for interdicting narcotics and other forms of contraband along the Mexico-U.S. border. This border, 1,900 miles long, with varied terrain and close proximity to paved highways in desolate sections of Texas, always had presented a difficult enforcement problem for Customs and other agencies seeking to stem the flow of illegal goods and persons from Mexico into the United States. Customs officials expressed concern that illegal entries along the southwest border would rise considerably because of the removal of 209 narcotics agents stationed along this stretch of land. These officials contended that once the transfer of Customs agents to DEA was completed, the resulting gap in border enforcement would have disastrous effects, especially in light of agency statistics showing that 80 per cent of Customs narcotics seizures occurred between ports of entry along the Mexico-U.S. border.[10]

The rationale for an internal redistribution of agency resources was, therefore, predicated largely on what Customs management described as the absolute necessity of plugging the gap along the southwest border. At the same time, Customs management acknowledged that the creation and deployment of a new Customs border patrol, while conforming to the restrictions imposed by the reorganization plan, would also reaffirm the role the agency had played traditionally in border interdiction activities, including the interdiction of narcotics and dangerous drugs.[11] One top official in Customs emphasized that Customs sought a response that would not only deal with the problem created by the transfer of a large number of its narcotics agents, but that would also underscore Customs' conviction that OMB and the Nixon Administration had made a mistake in assigning to DEA lead agency status in narcotics enforcement. This official commented bluntly:[12]

> *The one mistake they made was trying to take Customs out of drugs. It was a good idea to try to consolidate some of the narcotics agencies, but in attempting to remove Customs completely, they left us feeling castrated. . . . But they left the door open in regard to border enforcement and we grabbed at the chance to reassert ourselves, to make it clear that we could not follow the policy of the administration. The management here perceived the plan to be ill-conceived, and we proceeded to conduct ourselves in such a way as to demonstrate to OMB and DEA that we were not fully supportive of the principles of Reorganization Plan No. 2. We decided that "by our deeds we shall be known."*

The Effect of Customs' Internal Reorganization

The new organizational structure designed by Customs dictated changes in its narcotics interdiction activities and methods. It also necessitated the development of a new set of tasks to accommodate the curtailed sphere of jurisdiction within which Customs could act.

Reorganization Plan No. 2 forbade Customs from performing any narcotics-related investigative and intelligence work. Customs officials decided, therefore, that if the agency wanted to remain significantly involved in drug enforcement (and clearly it did), it had to concentrate on seizing drugs *between* ports of entry, a task that had been neither routine nor highly developed when narcotics agents were charged with this responsibility.[13] Thus, the Customs border patrol officers were to be both adaptable and mobile, free to move along the borders between ports of entry, and free to adjust their methods of operation to the environmental characteristics of a particular location.

Customs officials knew that this new strategy would lead to a marked change in the kinds of illicit drugs that the agency would intercept. Seizures of marijuana were certain to increase; seizures of cocaine and heroin were likely to decline. The reason was simple. With drugs such as cocaine and heroin, smaller quantities successfully smuggled into the United States yield a much higher profit. Because only small quantities of cocaine and heroin need be smuggled into the country to lead to a sizable financial return, and because such amounts are more readily concealed on the body, smugglers are more apt to attempt to pass these drugs *through* ports of entry rather than *between* ports of entry.

The exact opposite is true for marijuana. For marijuana smugglers to generate a profit worthy of the risk of illicit trafficking, it is necessary to bring large amounts of the drug into the country for internal distribution. Transporting the drug in its bulky form through ports of entry is a risky endeavor (to say the least), because large vehicles are more likely to raise the suspicions of Customs inspectors. As a result, smugglers of marijuana are more apt to traverse the U.S. borders in search of locations where they can cross large vans, boats, and trucks full of bales of marijuana into the United States, with a diminished risk of detection by law enforcement officials.

Just as Customs officials expected, following the rejuvenation of the Customs patrol officers force, Customs' drug seizure statistics reflected a rise in the amount of marijuana confiscated and a corresponding decline in the amounts of heroin, cocaine, and dangerous drugs intercepted (see Table 8–1 for figures).

Internal Customs memorandums attempted to deflect any criticism or unfavorable interpretation of this turn of events by averring that marijuana smuggling had increased greatly because of the more highly organized activities of smugglers and the increasing use of illegal aircraft and "mother ships," which anchor offshore in international waters and rely on smaller vessels to ferry illicit drugs to on-shore connections. Customs officials also insisted that by 1973 existing evidence pointed to a decline in the flow of heroin into the United States, although there was also evidence that the amount of cocaine entering the United States was rising.[14]

Another factor led Customs to predict a shift in its narcotics seizure statistics. Reorganization Plan No. 2 prohibited Customs from conducting any drug investigations and from gathering any independent intelligence for the sole purpose of initiating in-

Table 8–1 **Comparative Drug Seizure Statistics for Calendar Years 1973 and 1974**

	1973	*1974*	*Percentage of Change*
Heroin			
Number of seizures	516	419	−18.8
Quantity (pounds)	203	82	−60.6
Opium			
Number of seizures	91	71	−22.0
Quantity (pounds)	116	27	−76.7
Cocaine			
Number of seizures	1,113	936	−15.9
Quantity (pounds)	856	629	−26.5
Other narcotics			
Number of seizures	326	170	−47.9
Quantity (pounds)	123	289	+135.0
Marijuana			
Number of seizures	10,356	14,000	+35.2
Quantity (pounds)	399,529	530,073	+32.7
Hashish			
Number of seizures	3,695	3,500	−5.3
Quantity (pounds)	7,235	6,161	−14.8
Dangerous drugs			
Number of seizures	2,377	2,345	−1.3
Quantity (5 gram units)	31,111,656	9,414,972	−69.7

Source: Figures compiled by the Department of Treasury, U.S. Customs Service, Office of Enforcement Support, June 1975.

vestigations that might lead to the arrest of individuals involved in narcotics smuggling. Experience had taught those involved in narcotics enforcement activities that without the aid of intelligence or advance information, nabbing cocaine and heroin smugglers passing through ports of entry with traditionally heavy traffic patterns is difficult. With intelligence no longer emanating from its own Office of Investigation, Customs would have to rely principally on the receipt of leads from DEA;[15] considering the lack of cooperation and the strained relationship between the two agencies, it was doubtful that Customs would acquire enough intelligence from DEA to maintain its previous cocaine and heroin seizure records.[16]

In short, the organizational innovation devised and implemented by Customs had two general results. First, it enabled Customs to achieve its goal of retaining an active and significant role in the federal attack on narcotics. Second, it led to a number of outcomes unintended by those who had designed Reorganization Plan No. 2, including a still-prominent role for Customs in this policy arena, and a substantial increase in Customs' marijuana seizures. The Customs innovations also led, as we shall see below, to new problems of conflict and rivalry between Customs and the Immigration and Naturalization Service (which had its own border patrol force) and to continued failures of coordination and cooperation between Customs and DEA.

The Unintended Consequences of Reorganization Plan No. 2

The 1973 reorganization was drafted and implemented with the hope of enhancing the management and performance of federal narcotics law enforcement activities. The architects of the plan advanced it with a host of "good government" nostrums, including the need to eliminate duplication and overlap and to reduce pathological bureaucratic rivalries. It is especially ironic, then, that the Customs Service's innovative reinstitution and strengthening of its presence along the borders (a move unintended and unanticipated by the architects of Reorganization Plan No. 2) caused new problems akin to those the reorganization was intended to eliminate.

Conflicts with INS

The Customs innovation caused new conflicts between Customs and the Immigration and Naturalization Service over which agency should have lead status in border law enforcement activities. Customs and Treasury officials clearly believed that Customs would be the logical place within which to consolidate border functions vested in other departments and agencies, especially those functions performed by INS at and between ports of entry. These Customs officials urged the Office of Management and Budget to review the splintered ports-of-entry and border search responsibilities of various federal agencies. Customs wanted OMB to determine if a consolidation of these activities would be in the best interest of increased efficiency and effectiveness. Not surprisingly, some OMB officials regarded Customs' request with suspicion; they believed that Customs' deployment of a new border force was a move intended to solidify the agency's position along the borders, thereby pushing OMB into the position of having to designate Customs as the new lead agency for all border law enforcement activities.[17]

Despite these concerns, OMB did undertake a study, beginning in 1973, of federal law enforcement activities along the southwest border. Interestingly, the date of commencement of the OMB review coincided with the start of congressional hearings on Customs' request for supplemental appropriations to help with the implementation of changes in the structure of its work force. This point is worthy of note because of the conclusions drawn by the OMB study. Much to Customs' surprise and dismay, OMB recommended both that INS be tapped as the single agency in charge of routine patrols along the land border between ports and that the deployment of Customs patrol officers to ports of entry be curtailed.[18]

This time, although OMB was not drafting a formal reorganization plan (it could not do so because presidential reorganization authority had expired April 1, 1973, and was not yet renewed by Congress), an intensive six-month study was conducted, task forces were sent into the field prior to the drawing up of options, and the relevant agencies, INS and Customs, were asked to submit to OMB their respective proposals for consolidation of border patrol functions before OMB was to make its final decision. Not surprisingly, the Department of Justice issued a lengthy report urging recognition of INS (a Justice agency) as the lead unit for all land patrol operations between ports of entry.[19] In direct contrast, the U.S. Customs Service analysis proposed that Customs have primary responsibility for border area enforcement and that INS patrol officers be withdrawn from the border and stationed only at interior points.[20]

The plan upon which OMB finally settled was set forth in two letters issued June 5, 1974, and forwarded to the Attorney General and to the Secretary of the Treasury. The letters were not considered formal documents, and because OMB officials believed they were not changing fundamentally the functions of INS or Customs, Congress was not informed of the plan. The new OMB "management strategy," as it was called, stipulated that responsibility for law enforcement along the Mexico-U.S. border be placed in the hands of a single agency, INS. In practice, the single-agency concept would confer even greater responsibility on INS than the Justice Department had envisioned. Under the OMB plan, Customs patrol officers were to be withdrawn from the border, leaving INS with jurisdiction for the interdiction of both people and goods between ports of entry, effectively eliminating the newly reactivated Customs patrol force, a change not suggested by the Justice Department.[21]

Whether OMB's decision to grant INS lead agency status and other responsibilities was grounded on principles of "good management" or merely an attempt to retaliate against Customs for that agency's actions preceding, and subsequent to, the implementation of Reorganization Plan No. 2, is open to conjecture.[22] The more important point is that OMB was not afforded the opportunity to implement its decisions. When members of the House Committee on Government Operations received wind of the plan (purportedly from sources inside Customs), they immediately announced that the committee would hold hearings on the plan.

The congressional committee, while acknowledging that it made little sense to have two different agencies performing similar border patrol functions, concluded that both INS and Customs had separate statutory authority that justified the presence of both agencies along the border. Moreover, the committee determined that OMB was operating under questionable legal status "in attempting to promulgate without congressional sanction, a plan for single-agency management in southwestern border areas and functions."[23] Acting upon these considerations, the House of Representatives went on record against the OMB proposal, and by a vote of 283–100 adopted an amendment to HR 15544 forbidding any use of funds to carry out a transfer of Customs border interdiction duties to INS.[24]

The actions of the House of Representatives effectively eliminated any hope OMB had of achieving the goal of single-agency management of border patrol duties. However, the desirability of consolidating border enforcement responsibilities remains an issue even today. The problems of duplication, overlap, and lack of coordination between Customs and INS along the southwest border of the United States, although not pressing issues demanding immediate attention, still raise frequent calls for a single border management agency.

The Carter Administration, for example, drafted a reorganization plan in 1978 that sought to rectify the problem of conflict and overlap between Customs patrol officers and the INS Border Patrol. Originally there were three options under consideration: the first would simply beef up both Customs and INS resources along the Mexico-U.S. border; the second would combine the *patrol* functions of the two agencies in one department (either Justice or Treasury) and transfer all *inspection* duties to the other; the third would create a border management agency in either Treasury or Justice and assign to it both the inspection and patrol functions.[25]

The version approved by the Carter Administration proposed the creation of a new Border Management Service. Under this arrangement, the INS Border Patrol would have merged with the U.S. Customs Service in the Treasury Department. This move would have been accompanied by the transfer of visa-control functions from the State Department to INS. But vigorous opposition to the reorganization plan—emanating mainly from the key congressional committees with oversight responsibility over these agencies, from organized labor, and from Hispanic groups—effectively scuttled the plan.[26]

Persistent Problems with DEA

Just as the new conflicts between Customs and INS were unanticipated by the architects of Reorganization Plan No. 2, so also were the persistent failures to achieve coordination and cooperation between Customs and the new Drug Enforcement Administration. From the very outset, Customs' stance toward DEA was one of obstruction and obstinance. By August 1973, OMB was describing the relations between DEA and Customs as "poor and deteriorating," with "very little communication between the two agencies and only minimal interest in cooperation or accommodation."[27] Part of the problem was that DEA still did not have a permanent administrator at that point. OMB also apportioned much of the blame on the shoulders of Customs management. Indeed, Customs officials admitted that Customs' quarrelsome and uncooperative posture, on major and minor issues, was a deliberate strategy on the part of Customs.[28] One former Customs official noted that his old agency's harassment of DEA was often unethical or questionable, if not illegal: "We wanted to slam

DEA so bad that we would even fool with or manipulate statistics, keeping some back, making up others, fouling up their data; it was almost criminal. And we were obsessed with it."[29]

Not surprisingly, OMB encountered great difficulty in resolving issues that ranged from Customs' failure to grant search and seizure authority to DEA agents stationed along the border, to disagreements over the procedures to be used in handling Customs drug seizures, to the inability of the two agencies to agree on guidelines governing the passage of drugs through Customs inspection points for investigative purposes.[30]

Perhaps the most frustrating aspect of the early clashes between DEA and Customs was that the old battle lines between BNDD and Customs, which the Administration had hoped to erase by means of Reorganization Plan No. 2, were being redrawn. Customs, by its internal reorganization and its stubbornness at the negotiating table, demonstrated openly both its refusal to fade into the background of federal drug enforcement activities and its hostility toward DEA. Knowing full well that Customs was reluctant to do anything that might make DEA a success, DEA executives countered by directing (as one observer put it) "an aggressive effort to *monopolize* narcotics enforcement; the door would not be opened even a crack to let Customs assist in narcotics control efforts."[31]

The failure of OMB to resolve the impasses between DEA and Customs led to a situation very familiar to White House officials (but not expected to be a consequence of Reorganization Plan No. 2): top leaders in the Treasury and Justice Departments were forced to enter the disputes, as they had during the course of earlier conflicts between Customs and BNDD, in an effort to arrive at some mutually satisfactory compromise (or at least to paper over the differences). This form of confrontation was precisely what the architects of Reorganization Plan No. 2 had hoped to eliminate in 1973.

Later Developments

With the advent of Ronald Reagan's Administration in January 1981, the whole issue of reorganization and reassignment of narcotics jurisdictions once again emerged, as the new Administration showed a desire to do something about the problem of illegal narcotics trafficking. Customs clearly viewed the renewed interest in narcotics as an opportunity to recoup the losses it suffered in 1973. While rumors abounded in early spring 1981 about a potential dismantling of DEA and a transferral of its duties and personnel to the Federal Bureau of Investigation (FBI), Customs officials were hard at work lobbying the new administration for a reinstatement of jurisdiction for drug investigations.

Customs' efforts were rewarded when Donald T. Regan, Secretary of the Treasury, forwarded to Edwin Meese, President Reagan's senior policy adviser, a memorandum urging approval of a realignment of narcotics jurisdictions. Regan also argued that Customs should be allowed to regain a major role in this policy arena. The memorandum was blunt and clear in its reference to the 1973 narcotics agency reorganization; it recommended that "appropriate steps be taken to undo the effects of Reorganization Plan No. 2 of 1973."[32] The authors of the memorandum reasoned that the 1973 reorganization had not been successful in attacking the many facets of drug trafficking because, as they put it,[33]

> *the job is simply too big for a single mission agency like DEA. . . . A single mission agency tends to be jealous of its jurisdiction, inhibiting intelligence sharing and investigative cooperation, and thereby discouraging participation by other agencies. . . . [This] approach may be inherently unworkable because such an agency depends upon the continuation of the problem for its own survival.*

In the years since the implementation of Reorganization Plan No. 2, the Customs Service has grudgingly clung to its view that the agency was wronged by the architects of the 1973 reorganization. Customs officials have repeatedly tried to undermine DEA's work. It is no surprise to anyone familiar with the rocky political terrain of this policy arena that Customs would try further to discredit DEA and vigorously press its case to win back the drug enforcement authority it once had. But Customs was to lose in this latest round as well, when the Reagan Administration decided in early 1982 to assign the FBI concurrent jurisdiction, with the DEA, over narcotics enforcement.

The Unintended Consequences of Reorganization: Were They Avoidable?

The basic purpose of the reorganization was the consolidation of federal narcotics activities in one lead agency. Because Customs was not chosen as that agency, an accompanying decline in the responsibilities and duties of Customs in this policy arena should have taken place. However, the distinction between interdiction and investigation—the former to be retained by Customs and the latter to be the province of DEA—was not spelled out precisely and unambiguously in the legislation. Customs, therefore, was afforded the opportunity to stay much more involved in the federal attack on narcotics than the reorganization's architects had envisioned.

Customs did not take long to reassert its authority in the narcotics enforcement field, doing so primarily by reactivating its uniformed force of patrol officers along the southwest border. This move, coupled with the agency's uncompromising (sometimes hostile and obstructive) attitude toward DEA, caught everyone concerned off guard. For example, OMB certainly did not anticipate Customs' forceful reentry into the narcotics arena. But the behavior of Customs (and the consequences of the agency's actions) can hardly be blamed on OMB. After all, OMB officials fully expected (and reasonably so) that Customs would accept the conditions of the president's reorganization plan. Customs, however, was not willing to play the part of the loyal soldier.

Had OBM known in advance of Customs' plans, and had OMB been successful in impeding the implementation of those plans, perhaps the ensuing conflicts could have been avoided. Yet even if OMB had anticipated Customs' actions, whether it could have stopped the agency from behaving as it did is uncertain. After all, as OMB learned in the spring of 1974, Congress was in full agreement with Customs' stance that the agency had a statutory right to maintain a force along the U.S. borders. In fact, the very language drafted by OMB and contained in Reorganization Plan No. 2 (originally included to appease Customs) was used to back up this opinion.

OMB's belated decision to merge border patrol functions into one agency had a good deal of merit: It was a rational attempt to resolve the problems of conflict and overlap between INS and Customs. The problem of overlapping border functions, exacerbated by the rejuvenation of the Customs patrol force, still warrants attention today. But given the statutory authority of each agency, and given the determination of each to hold on to what it now possesses, a long and bitter battle will likely erupt whenever a new solution is again proposed.[34] Furthermore, Customs' lobbying of the Reagan Administration clearly indicates that Customs has yet to accept the losses it suffered in 1973.

Moreover, even if OMB and Nixon Administration officials had specific, advance knowledge of Customs' desire to reenter the narcotics field, it is uncertain that they could have prevented the agency from doing so. It is true that the reorganization plan prohibited Customs' Office of Investigation from engaging in any form of investigative activity related to narcotics. But the reorganization plan also specified that Customs was to retain interdiction duties, toward which the tasks of the Customs patrol force were then tailored. As DEA has labored to point out on numerous occasions, the theoretically distinct functions of patrol and investigation can come into conflict and competition with one another. The interdiction of narcotics can provide unexpected opportunities for patrol organizations to engage in investigative work; that may in turn lead to a decrease in the supply of leads to the investigative unit and a corresponding decrease in actual patrol efforts. Similarly, there is a fair probability that both patrol and investigative officers may unknowingly be working on the same case or that a patrol force may flood investigators with what it feels are good leads, thereby inhibiting investigators from pursuing attractive leads of their own.[35] Given these possibilities, that conflict and competition developed between Customs and DEA is not surprising.

Moreover, even if Customs had not reactivated its patrol unit, difficulties between DEA and Customs might well have ensued anyway. There is no question that DEA perceived Customs as "the enemy" that would be out to thwart the success of the new drug agency. Therefore, DEA was not inclined toward any generosity in its dealings with Customs and viewed any Customs narcotics enforcement endeavors with decided suspicion. In fact, in early 1975 DEA was concerned about reports from what it called "reliable sources" indicating that Customs had a "secret plan" ready to undo the major thrusts of Reorganization Plan No. 2 by means of legislation and to regain for itself a major role in narcotics enforcement.[36]

In the final analysis, the consequences of the reorganization plan as they affected Customs' relationship with DEA, and possibly Customs' relationship with INS, could not have been avoided even if the actions of Customs had been anticipated by White House officials. As Mark Moore has theorized, the nature of the tasks of the relevant organizations virtually dictated the development of conflicts among the relevant agencies. Each organization followed a certain set of procedures, each was limited by a fixed allocation of resources, and each had a specific sense of how it should go about carrying out its mission, thereby limiting the manner in which each structured and performed its tasks.[37] It was inevitable that conflicts would emerge: each organization developed a specialization in particular enforcement tactics, each organization was convinced its style was better, and each had the jurisdiction to do what it was doing. Even a massive administrative reshuffling can accomplish little under such circumstances.

Endnotes

1. See Chapter 5 for the reasons behind the disputes.
2. Private organizations are likely to innovate more frequently because they face more challenges to their survival and because they have more control over factors of production than do public organizations.
3. See James Q. Wilson, "Innovation in Organizations: Notes Toward a Theory," in James D. Thompson, ed., *Approaches to Organizational Design* (Pittsburgh: University of Pittsburgh Press, 1966), pp. 193–218.
4. Interview with Customs official, July 1976.
5. Richard Cyert and James March, *A Behavioral Theory of the Firm* (Englewood Cliffs, N.J.: Prentice-Hall, 1963), pp. 36–38, 278–79.
6. Lawrence B. Mohr, "Determinants of Innovation in Organizations," in Lloyd A. Rowe and William B. Boise, eds., *Organization and Managerial Innovation* (Pacific Palisades, Calif.: Goodyear Publishing Co., 1973), pp. 49–75.
7. The agents transferred to DEA were those for whom 50 per cent or more of their time was spent on narcotics investigations.
8. From Section 1 of the reorganization plan in: U.S., Congress, House, *Message from the President of the United States Transmitting Reor-*

ganization Plan No. 2 of 1973, Establishing a Drug Enforcement Administration, H. Doc. 93–69, 93d Cong., 1st sess., 1973, p. 190.

9. McKinsey and Company, Inc., "Management Survey of the Bureau of Customs," Chap. VIII, January 1948 (typewritten).
10. U.S., Congress, House, Committee on Government Operations, *Law Enforcement on the Southwest Border, Hearings before a Subcommittee of the House Committee on Government Operations*, 93d Cong., 2d sess., 1974, pp. 106–07.
11. Department of the Treasury, U.S. Customs Service, "Integrated Interdiction Program: Briefing Document," June 1975 (typewritten), p. 1.
12. Interview with Customs official, June 1976.
13. Interviews with narcotics agents indicated that the investigative and intelligence work was the "sexy" aspect of their narcotics duties; interdiction was a secondary concern, although a task that provided leads for investigative activities. However, interdiction, in and of itself, was not regarded as the most significant work of the agents.
14. Department of the Treasury, U.S. Customs Service, "Integrated Interdiction Program," pp. 2–3. Figures compiled by Customs showed a sharp increase in the number of cocaine seizures and an increase in the quantities of cocaine confiscated between fiscal year 1972 and fiscal year 1973.
15. Customs did have a communications system known as "TECS," which was being updated and expanded to provide instant access to centralized enforcement files.
16. As of May 1, 1975, Customs was still complaining that it was receiving virtually no data or advance intelligence from DEA, although Customs generally requested such on the average of twice per month.
17. Interviews with Office of Management and Budget officials, June 1976 and August 1976.
18. Office of Management and Budget, "U.S. Border Patrol Operating Plan for Detection and Interdiction of Illegal Aliens and Drugs," July 11, 1974 (typewritten).
19. U.S. Department of Justice, "A Secure Border: An Analysis of Issues Affecting the U.S. Department of Justice," March 4, 1974 (typewritten). This study, while favoring INS as the lead agency, did acknowledge that Customs had a legitimate role in border enforcement. Therefore, it did not recommend a takeover of any Customs functions, but rather recommended an official pronouncement of INS as the lead agency and the development of formal agreements identifying each agency's jurisdiction and delineating the working relationships between INS, DEA, and Customs.
20. The Treasury Department's proposal went much further than that of the Justice Department in that it proposed realigning the INS Border Patrol, arguing that INS was not "equipped" for contraband interdiction and therefore would not be effective in this pursuit. See Department of the Treasury, U.S. Customs Service, "A Balanced Program to Combat Smuggling and to Integrate Customs Enforcement Efforts," November

27, 1973 (typewritten) and Department of the Treasury, U.S. Customs Service, "A Study of the Impact of Marihuana Smuggling," May 1974 (typewritten).

21. The Justice Department proposal did not contain any plans for the removal of the Customs force from the border. It suggested only that INS be designated the lead agency in charge of supervising and coordinating the activities of both its own Border Patrol and Customs' patrol force.
22. Several Customs officials have expressed the belief that this was in fact the case. For a recitation of the reasons behind OMB's decision, see U.S., Congress, *Law Enforcement on the Southwest Border*, H. Rept. 93–1630, pp. 3–5.
23. *Ibid.*, pp. 28–30.
24. *Congressional Quarterly Almanac*, 1974, pp. 78–79. The amendment was attached to the 1974 appropriations bill on June 25, 1974.
25. *The Washington Post*, 7 April 1978, p. C 15.
26. *The New York Times*, 26 July 1978, P. A 9.
27. Memorandum from Walter Minnick to Roy Ash entitled "Unresolved Drug Reorganization Issues," August 15, 1973.
28. Interview with Customs official, June 1976.
29. Interview with former Customs official, July 1981.
30. Memorandum from Walter Minnick to Roy Ash, "Unresolved Drug Reorganization Issues."
31. Mark H. Moore, "Reorganization Plan #2 Reviewed: Problems in Implementing a Strategy to Reduce the Supply of Drugs to Illicit Markets in the United States," *Public Policy* 26 (Spring 1978):250. Moore goes on to state that former Customs officials, now in DEA, advised DEA officials to take the "hard line" against Customs.
32. Memorandum for Edwin Meese, III, counselor to the President, from Donald T. Regan, Secretary of the Treasury, p. 5.
33. *Ibid.*, p. 4.
34. This is an old problem that dates back to 1943 when management consultants suggested a merger of the functions of the various agencies operating along the border.
35. Memorandum from John Bartels to Laurence J. Silberman, deputy attorney general, entitled "Agenda of Unresolved Issues between Customs and DEA," December 4, 1974.
36. Internal U.S. Justice Department memorandum, untitled, Winter 1975 (typewritten), pp. 2, 25. Despite the worries of DEA, nothing of this sort ever evolved in Congress.
37. Mark H. Moore, "Reorganization Plan #2 Reviewed: Problems in Implementing a Strategy to Reduce the Supply of Drugs to Illicit Markets in the United States," unpublished manuscript, December 31, 1975, pp. 1, 10. (This was an earlier version of the article written by Moore of the same title cited above.)

ANALYSIS OF FEDERAL INSPECTION AGENCY MANAGEMENT AND ORGANIZATION

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I. INTRODUCTION

In order to strengthen air commerce and achieve greater government productivity, the United States must improve its ability to facilitate the movement of passengers and cargo through its international gateway airports, and must assure that federal inspection services are performed efficiently and economically. National policy calls for measures to encourage travel, tourism, and trade and, concurrently, to prevent the entry of unlawful narcotics, illegal aliens, contraband, and dangerous plant, animal, and human diseases.

The challenge of accomplishing these objectives is illustrated by an examination of the scale of activities involved. Twenty-six million air travelers entered the United States on more than 200,000 scheduled and charter aircraft in 1982.[1/] In the same year, international cargo, with an estimated value of $31 billion, arrived by air at United States gateway airports.[2/] Federal projections indicate that substantial increases in both passengers and cargo can be anticipated in the decade ahead.[3/] An increasing proportion of international cargo shipments is comprised of time-sensitive small-package and document express shipments, for which efficient customs clearance procedures are particularly important.

The economic impact of this international commerce emphasizes the necessity for modernizing and streamlining the federal inspection services. In 1982, customs duties collected on air and surface imports exceeded $9 billion.[4/] This figure compares with the collective budgets of $1.2 billion for the U.S. Customs Service, the Immigration and Naturalization Service, and the Animal

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[1/] See Appendix A.

[2/] See Appendix B.

[3/] Federal Aviation Administration, "FAA Aviation Forecasts - Fiscal Years 1982-1993" (February 1982).

[4/] See Appendix C.

and Plant Health Inspection Service.[5] According to the U.S. Travel Data Center, visitors from abroad contribute annually $12 billion to the United States economy, producing over $1 billion in federal, state, and local taxes, and supporting 320,000 jobs.[6] In recent years, the rate of growth of foreign visitor spending has far outpaced the rate of growth of U.S. personal consumption expenditures and the Gross National Product.[7]

It is widely recognized that the increase in passengers and cargo, and the magnitude of revenue involved, have not prompted the government to improve the federal inspection process for international air commerce. Over the past five years, international air passenger travel has increased by 41%[8] and air cargo tonnage by about 29%[9] while the number of Customs inspectors, for example, at airports has not increased at all.[10] This has resulted in lengthy inspection periods, which have imposed time and financial burdens on the traveling and shipping public, and the airline industry as well.[11] A Government Accounting Office report on delays in the federal inspection process at airports in New York and Miami provides evidence that such inefficiency may have cost air travelers at those airports more than $26 million in 1982.[12] Air carriers, too, incur increased operating expenses, when multi-million dollar aircraft and flight and maintenance crews are prevented from being utilized optimally by delays in inspection practices and procedures. Localities, fearful of losing revenue and goodwill from past and potential international visitors, have also called for

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5/ See Appendix D.
6/ See Appendix E.
7/ See U.S. Travel Service, "The Economic Impact of Foreign Visitor Spending," (September 1980).
8/ See Appendix A.
9/ See Appendix B.
10/ Current budget proposals call for an actual decrease in the number of Customs inspectors.
11/ See Appendix F.
12/ See Comptroller General, More Can Be Done to Speed Entry of International Travelers (1979). The analysis of costs to passengers is provided in Appendix G.

improvements. The County Manager of Dade County reported in January that at Miami International Airport inspection problems were "worse than ever."[13/]

Executive and legislative branch studies described in this analysis, including reports of the Comptroller General to the Congress, have established that efficiencies can and should be achieved in the use of federal inspectors, and also in streamlining their functions to take advantage of modern technology, such as state of the art computers and advanced communications systems. Such improvements would advance the Congressional objective, expressed in the National Tourism Policy Act, to "encourage the simplification, reduction, or elimination of barriers to travel, and the facilitation of international travel generally."[14/] Similarly, action is necessary to facilitate the movement of international air cargo and to reduce the need for more costly holding facilities.

Improvements in the federal inspection system would also be consistent with this nation's commitments as a signatory to the Chicago Convention on International Civil Aviation. Annex 9 to the Convention sets forth facilitation Standards and Recommended Practices designed to "prevent unnecessary delays to aircraft, crews, passengers, and cargo, especially in the administration of the laws relating to immigration, quarantine, customs and clearance."[15/] The United States is obliged to establish to the extent practicable procedures "in accordance with the practices which may be established or recommended...pursuant to this Convention."[16/] An example is the dual channel system for the inward clearance

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13/ See Appendix H.
14/ 22 U.S.C. §2122.
15/ See Article 22 of the Convention, 61 Stat. 1180, 1186 (Dec. 7, 1944).
16/ See Article 23 of the Convention, 61 Stat. 1180, 1186 (Dec. 7, 1944).

of passengers[17] and their baggage,[18] a system which has long been in use abroad but has been implemented only recently at three U.S. airports.

The need for improvements in the federal inspection system is compelling. To achieve these improvements, it appears that the number of federal inspectors must be increased substantially, or that a high priority program be initiated to revise the inspection process, or both. Clearly, actions to modernize and simplify the system, such as implementation of accelerated one-stop passenger inspections, citizen by-pass, machine readable passport examination, and automated selective processing of cargo and express shipments are essential to keep pace with the growth of international air commerce. Past history and the current situation demonstrate the complexity of the issues, and the need for legislative and executive branch officials most familiar with the problems to implement a solution. The airlines wish to be of assistance in this work.

It is hoped that the following analysis will be helpful. It first examines the federal inspection process today and the regulatory responsibilities of the various inspection agencies, then reviews major studies conducted in the past regarding that process, and then presents options and recommendations that may be considered individually or in combination as potential improvements for the current inadequate system.

II. HOW THE FEDERAL INSPECTION SYSTEM WORKS TODAY

The Airport and Airway Improvement Act of 1982, Public Law 97-248, required the Secretary of Transportation to appoint a task force to be chaired by the Chairman of the Civil Aeronautics Board to conduct a study of airport access problems and issues. The task force study has been completed and was

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17/ See Annex 9, Chapter 3, V 3.17.1; reproduced in Appendix I, infra.
18/ See Annex 9, Appendix 5, reproduced in Appendix I, infra.

submitted to the Congress on March 10, 1983. The following is an excerpt concerning federal inspection services contained in the task force report:

> "Federal Inspection Services (FIS) at U.S. airports are a significant cause of groundside congestion and delay for international air passengers and shippers. FIS congestion and delay detrimentally impact international passenger and cargo facilitation, disrupt the ability of arriving international air passengers to make planned domestic flight connections, significantly affect the movement of urgent shipments in international commerce, and can affect the capacity of an airport to accommodate international traffic."[19/]

The delays and disruptions described by the task force reflect the fact that the inspection process today for passengers and cargo arriving in the United States has changed little fundamentally from the days of the steamship. As the Comptroller General noted in connection with cargo, "Customs' inspection requirements are still dictated by a law enacted in 1842,"[20/] and many requirements governing passenger inspections are of similar heritage.[21/] Delays in the inspection process of three hours or more have been experienced at major U.S. airports including New York and Miami,[22/] and concern over delays has been an important factor in prompting carriers at several busy airports to increase substantially the time between the international arrival and the connecting domestic flight.[23/] Congress has expressed alarm that the "rapidly increasing volume of both international air passengers and cargo...[has resulted in]...congestion and excessive delays...at U.S. airports of entry."[24/]

[19/] See Appendix J.

[20/] See Comptroller General, Customs' Cargo Processing - Fewer But More Intensive Inspections Are in Order 7 (1978).

[21/] See Section III, *infra*.

[22/] See Appendix F.

[23/] At Honolulu International Airport, the standard minimum connecting time from an arriving international flight to a domestic connecting flight has increased, for example, from 90 minutes in January of 1973 to 120 minutes in January of 1983. At San Francisco International, the increase for the same period has been from 75 minutes to 135 minutes. Source: Official Airline Guide.

[24/] S. Rep. No. 97-192, 97th Cong., 1st Sess. 21 (1981). This concern was forcefully reiterated in September of 1982. See S. Rep. No. 97-547, 97th Cong., 2nd Sess. 24 (1982).

For the international traveler and shipper, there is little need to detail the elements of the federal inspection process at U.S. airports. They have had time, often an abundance of time, to anticipate and participate in that memorable process. Passengers know from personal experience that arrival in the U.S. after a long international journey can mark the beginning of an exhausting experience. Shippers know that if their important shipments arrive after 5:00 p.m., or on a weekend, the cargo will often sit unprocessed until at least the next business day, and, sometimes, days beyond that.

While there are variations at some airports participating in tests, the current passenger inspection process through the airport facility is the traditional two-stop system. With hands filled with inspection forms, receipts, passports, tickets, baggage checks, and hand baggage, the arriving passengers first stand in line to be interviewed by Immigration officials before claiming their checked baggage.[25/] Documents are examined to determine whether they can be admitted to the United States, and their physical appearances are considered for possible health problems.

After the standing in line and the completion of the Immigration examination, the formal federal inspection process is suspended while the passengers claim their checked baggage. They then move to another area to stand in another line to await another examination. The Customs official conducts an interview. The inspector enters the traveler's name and date of birth in the Treasury Enforcement Communications System for a computer check against a list of known or suspected violators. The inspector reviews the passenger's Customs Declaration and examines all or part of the passenger's baggage.[26/]

[25/] Although the federal agencies are authorized to expend public funds to acquire space at airports for the performance of their public inspection functions, e.g. 49 U.S.C. §1509(e), it is the airlines and other airport tenants which pay for inspection agency space and periodic, costly modifications.

[26/] If plants, animals, or food are discovered or suspected, the passenger may be referred to yet another inspection conducted by the APHIS inspectors from the Department of Agriculture.

Either during the wait for the first or second inspection, arriving passengers are often faced with legitimate concerns. Will they make connecting flights at gates located on the other side of the airport? Will persons meeting them who have been driving in circles in the passenger pick-up area since the scheduled arrival time, understand and not be inconvenienced or worried about their whereabouts? Such worries are naturally exacerbated if the lines are long, their children fatigued, and the number of bags sufficient to require the pushing of baggage forward with feet and knees. Only after this second inspection and endurance test is concluded are passengers able to continue their journeys.

For experienced and inexperienced international travelers alike, this frustrating and fatiguing process is no shock. The inspection system has been the subject of innumerable newspaper and magazine articles. Few television viewers have not seen the newsclips of wall to wall, agitated passengers, inching along their suitcases in the crowded and noisy inspection areas. Public complaints about the system have been so vocal that the federal government has authorized and completed study after study, some described later in this analysis, recommending improvements that are, however, rarely, if ever, adopted. The airlines, themselves, have had to adjust their connecting schedules to accommodate delays. Upwards of 30% of international passengers need domestic connections.

While not as well known generally, the problems associated with the processing of international air cargo and express shipments are equally frustrating. Speed of delivery is the very lifeblood of the air cargo industry. But the advantages of being able to ship cargo and documents across the ocean in a matter of hours are greatly diminished when the system of inspection and documentation can delay delivery for days. Such delay can also result in the uneconomical acquisitions of more holding facilities when cargo is not promptly processed on a daily basis. Moreover, this warehousing of cargo greatly increases the potential for security problems.

Shipments must go through both an inspection and evaluation process. The inspection process is designed to ascertain the accuracy of the merchandise description and quantity and to assure that any import quotas are not exceeded, while the evaluation process is undertaken to make certain that correct duty is paid. There is no dispute about the necessity for a system of examination and evaluation. The question is whether the most advanced, efficient, and productive techniques have been and will be utilized to meet Customs' dual obligations of enforcement and the facilitation of the movement of international commerce. In the past, the answer has been no. Recent indications are that greater implementation of modernized procedures may be forthcoming, by utilizing, for example, far more than in the past, an automated approach for selective cargo examinations, and selective entry processing. Problems have also surfaced in the operation of programs which establish necessary controls on export shipments. For example, a lack of coordination between Customs and shippers has resulted in export shipments being detained without prompt notification being provided to the shipper,[27] or being subject to duplicative inspections.

It would be unfair merely to point to the well-known inadequacies of the passenger and cargo inspection systems, and imply that the federal government is indifferent to the situation. Federal inspectors are hard-working and responsible employees. Their supervisors clearly desire to carry out the requirements of the law. The problem is not a question of good intentions. It is a system which, in spite of good intentions, has become unwieldly, uncoordinated, incapable of adjusting quickly to the dynamic changes of the air transportation industry, and greatly in need of new instructions to carry out its enduring responsibilities.

Before considering what those instructions might be, it will be useful to examine with specificity the duties assigned to the inspection agencies.

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[27] See Washington Report, December 7, 1982 at 13 (U.S. Chamber of Commerce).

III. REGULATORY RESPONSIBILITIES OF FEDERAL INSPECTION AGENCIES

In the nearly 200 years since the creation of the predecessor of the United States Customs Service,[28] Congress has passed many laws establishing an extraordinary variety of border management responsibilities. The traditional work of collecting duties on imports has expanded to include enforcement of hundreds of laws and regulations involving such diverse subjects as international trafficking in controlled substances and the importation of honeybees.

To achieve the statutory objectives, Congress has assigned responsibilities to a number of agencies. At airports, for example, officials from Customs, the Immigration and Naturalization Service (INS), the Drug Enforcement Administration (DEA), and the Animal and Plant Health Inspection Service (APHIS), are generally present. Other agencies with statutory obligations at the border utilize the services of agencies present to assure fulfillment of their legal mandates.[29]

To understand the breadth of inspection responsibilities at airports and the roles of the principal federal agencies involved, the following summary, highlighting the more important agency roles, is provided.

A. United States Customs Service

Customs is charged with assessing and collecting duties, excise taxes, fees and penalties associated with the importation of merchandise.[30] It is obligated to interdict and seize contraband, including narcotics, drugs, and certain firearms.[31] It is authorized to inspect and search all persons, baggage, and merchandise arriving in the Customs territory of the United States.[32] It may board any aircraft arriving in the United States from a foreign country for the purpose of examining the manifest and other documents and searching the aircraft.[33]

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[28] 1 Stat. 29, July 31, 1789.

[29] The Fish and Wildlife Service does station inspectors at certain designated border areas. The Center for Disease Control provides inspectors or private doctors under contract as the needs of the public health require.

[30] See e.g. Tariff Act of 1930, as amended, 19 U.S.C. §1202 et seq. The current Tariff Schedule of the United States is nearly 800 pages long, exclusive of appendices. Several typical pages are annexed in Appendix K.

Customs enforces laws designed to protect American business and labor. For example, Customs enforces orders of the International Trade Commission prohibiting unfair practices in the import trade[34] and excluding or changing the duties on imports from countries discriminating against the commerce of the United States.[35] Customs also is instrumental in preventing the importation of articles bearing a false notice of copyright and piratical copies of copyrighted works,[36] and in prohibiting the importation of foreign made articles bearing American-owned trademarks.[37] Customs enforces tariff rate and absolute quotas established by Presidential proclamations, Executive Orders and legislative enactments.[38] It also monitors compliance with country of origin marking requirements,[39] and is authorized to examine "all mail arriving from outside the Customs territory of the United States which is to be delivered within the Customs territory of the United States."[40]

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[31] 49 U.S.C. §§781-787.
[32] See e.g. 19 U.S.C. §§1461, 1467, 1496, 1582; 19 C.F.R. §162.6.
[33] 19 U.S.C. §1581, 49 U.S.C. §1509; 19 C.F.R. §6.10.
[34] 19 U.S.C. §1337; 19 C.F.R. §12.39.
[35] 19 U.S.C. §1338; 19 C.F.R. §12.39.
[36] 17 U.S.C. §§106, 108; 19 C.F.R. §133.41.
[37] 15 U.S.C. §1124, 19 U.S.C. §1526; 19 C.F.R. §133.
[38] See 19 C.F.R. §132.
[39] See 19 U.S.C. §§1202, 1304; 19 C.F.R. §134.
[40] See 19 C.F.R. §145.2. Several types of mail are exempt, and restrictions apply to the opening of certain categories of mail.

In cooperation with other agencies, Customs assists in the enforcement of laws relating to the importation of certain foods and cosmetics,[41/] pesticides,[42/] hazardous substances,[43/] cheeses,[44/] milk and cream,[45/] meats,[46/] plants,[47/] agricultural and vegetable seeds,[48/] viruses, serums, and toxins,[49/] domestic and wild animals,[50/] whale products,[51/] tea,[52/] liquors,[53/] motor vehicles and their engines,[54/] and electronic products.[55/] This listing is but a sample.

B. The Immigration and Naturalization Service

The Immigration and Naturalization Service (INS) is responsible for administering and enforcing the immigration and nationality laws of the United States. The agency is responsible for insuring that persons entering into or remaining in the United States are entitled to do so. At the airport this entails such duties as determining the admissibility of aliens,[56/] examining entry documents,[57/]

41/ See 21 U.S.C. §301 et. seq.; 21 U.S.C. §381; 19 C.F.R. §12.1 (a).
42/ See 7 U.S.C. §136(o)(c); 19 C.F.R. §12.1(b).
43/ See 15 U.S.C. §1261; 19 C.F.R. §12.1(c).
44/ See 7 U.S.C. §1854; 19 C.F.R. §12.5.
45/ See 21 U.S.C. §§141-149; 19 C.F.R. §12.7.
46/ See 19 U.S.C. §1306; 19 C.F.R. §12.8.
47/ See 7 U.S.C. §§151-162; 19 C.F.R. §12.10.
48/ See 7 U.S.C. §1592(b); 19 C.F.R. §12.16.
49/ See 21 U.S.C. §§151-158; 42 U.S.C. §262; 19 C.F.R. §§12.17, 12.21.
50/ See 18 U.S.C. §42; 19 C.F.R. §§12.24, 12.26, 12.28.
51/ See 16 U.S.C. §916; 19 C.F.R. §12.30.
52/ See 21 U.S.C. §§41-50; 19 C.F.R. §12.33.
53/ See 27 U.S.C. §203; 19 C.F.R. §12.38.
54/ See 42 U.S.C. §7521; 19 C.F.R. §12.73.
55/ See 42 U.S.C. §263(f); 19 C.F.R. §12.91.
56/ See e.g. 8 U.S.C. §§1103, 1182.
57/ See e.g. 8 C.F.R. §§211, 212, 235.

imposing fines,[58] forwarding requests for asylum,[59] prohibiting the departure of certain aliens,[60] receiving arrival and departure manifests,[61] detaining aliens for observations and examinations related to mental and physical defects,[62] administering the deportation of excluded aliens,[63] and seizing vehicles or aircraft believed to have been used in violation of the Immigration law.[64]

C. The Drug Enforcement Administration

The Drug Enforcement Administration is the primary federal law enforcement agency responsible for combatting drug abuse. Among its responsibilities is the investigation and suppression of the illegal importation of illicit substances.[65] In support of this goal, DEA employs drug enforcement programs at airports[66] which utilize such tools as a drug courier profile.[67]

DEA has operational agreements with Customs and INS and the agencies exchange intelligence information on a regular basis.[68]

D. Animal and Plant Health Inspection Service Of The Department of Agriculture

The Animal and Plant Health Inspection Service regulates the entry of agricultural products into the United States by inspecting passenger properties

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58/ See e.g. 8 U.S.C. §§1221(d), 1330; 8 C.F.R. §280.
59/ See 8 U.S.C. §1182(d)(5); 8 C.F.R. §208.
60/ See 8 U.S.C. §1185; 8 C.F.R. §215.
61/ See e.g. 8 U.S.C. §1221(d); 8 C.F.R. §§231, 251.
62/ See 8 U.S.C. §1222; 8 C.F.R. §232.
63/ See 8 U.S.C. §1227; 8 C.F.R. §237.
64/ See 8 U.S.C. §1324(b); 8 C.F.R. §274.
65/ See e.g. Controlled Substances Act of 1970, as amended, 21 U.S.C. §801 *et seq.*
66/ See United States v. Mendenhall, 446 U.S. 544 (1980); reh. denied, 448 U.S. 908 (1980).
67/ See United States v. Van Lewis, 409 F. Supp. 535 (E. D. Mich. 1976), aff'd. 556 F.2d 385 (6th Cir. 1977).
68/ See Office of Drug Abuse Policy, *Border Management and Interdiction, An Interagency Review*, 1977 at App. C-5, 6; see e.g. 19 C.F.R. §162.

and shipments at major air, sea, border, and offshore points of entry.[69] Cargoes and personal possessions involving plants and plant products, as well as general cargoes, are examined for infested plants, agricultural pests, and for prohibited animal products.[70]

To accomplish such objectives, APHIS is empowered, for example, to issue notices of quarantine prohibiting importation of specified articles,[71] and establishing quarantine requirements for various kinds of animals.[72] APHIS works closely with Customs in carrying out its inspection function.

The foregoing examples of the responsibilities of the major inspection agencies demonstrate the diversity of border management concern.

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The functions performed by the agencies are clearly designed to protect and promote the public interest, and, accordingly, are funded by the nation as a whole. From time to time, however, proposals are made to shift the costs of these public functions to specific "users" of the federal inspection process. Such proposals have been rejected firmly in the past, and should be in the future. The nation as a whole is the true "user" and primary beneficiary of the federal inspection process, and is properly responsible for funding its operation. Any shift in that longstanding responsibility would be inconsistent not only with very basic governmental principles and important federal statutes designed to promote travel and trade, but also with United States' international obligations, reflected in treaties and agreements.

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[69] See e.g. 7 U.S.C. §§150bb, 150dd-ff; 7 C.F.R. §330, 9 C.F.R. §§91-96.
[70] See e.g. 7 U.S.C. §1622, 19 U.S.C. §1306, 21 U.S.C. §§102-105; 9 C.F.R. §§92-96.
[71] See 7 U.S.C. §§159, 160; 7 C.F.R. §319.
[72] See 9 C.F.R. §92.11.

Over the past 15 years, numerous studies prepared by a variety of authors have suggested improvements for the federal inspection process. A review of the more pertinent of those studies follows.[73/]

IV. PREVIOUS REPORTS AND STUDIES ON FEDERAL INSPECTION AGENCY MANAGEMENT

While the federal border inspection process has been the subject of examination for many years, we have chosen for review pertinent studies conducted since 1968. That year witnessed the introduction of the Boeing 747, an advanced generation aircraft with substantially increased passenger and cargo capacity which imposed new burdens on the traditional federal inspection process.

A. U.S. Bureau of the Budget, Interagency Report on Inspection At Ports of Entry, 1968

The study of ports of entry was confined to activities relating to passengers and their baggage. It was designed to provide recommendations for border management improvement which could be implemented quickly to handle an "impending crisis",[74/] an expected surge of travelers passing through undermanned and outdated inspection facilities.

For airports, the study recommended "a one-stop system of multiple inspection wherein arriving passengers are inspected by a single officer for all...agencies."[75/] Such a system could be expected to expedite passage through the inspection area, provide better manpower utilization, improve space utilization, "place greater emphasis...on high-risk categories and less emphasis on low-risk categories,"[76/] and "improve the Government image."[77/] The study called

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[73/] A list of sample studies on the general subject of the federal border inspection process is found in Appendix L.

[74/] Report at Chapter I.

[75/] Report at 9.

[76/] Report at 12.

[77/] Report at 12.

for, inter alia, cross designation and training of personnel of the inspection agencies, and development of an interagency management information system "to update risk criteria and evaluate training..."[78]

While the report concluded that adoption of its recommendations could solve the "impending crisis", it went on to call for a single agency in the future. It noted that:

> Planning is made ineffective because no single agency has broad enough jurisdiction to plan for most of the major changes that are needed. Changes are extremely difficult to effect because of the practical difficulties of obtaining unanimous agreement on what should be changed, by whom, when and how much. A single and effective voice to represent the total inspection function with the public, the travel industry, and other groups is entirely lacking.[79]

The report's recommendation for solving this problem was to consider the feasibility of assigning the complete responsibility for the inspection of passengers and baggage to "one of the...agencies now performing those activities."[80]

As the following review of more recent studies will show, the feasibility of assigning inspection duties to one agency has been carefully and comprehensively considered.

B. Comptroller General, A Single Agency Needed to Manage Port of Entry Inspections - Particularly at U.S. Airports, May 30, 1973.

Because of a predicted surge of international air arrivals, the Comptroller General reviewed the federal inspection system, primarily at John F. Kennedy International Airport. He found that "a fragmented approach to port-of-entry inspections will not allow the development of a more efficient and effective inspection system,"[81] and recommended that the agencies involved cooperate in developing "single-agency management of port-of-entry inspections."[82] He concluded that the benefits of such a system would include uniform administrative policies and procedures, improved "scheduling, planning, and coordination", elimination of duplication, and reductions in space and staff requirements and inspection time.[83]

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[78] Report at 17.
[79] Report at 56.
[80] Report at 56.
[81] Report at 21.

C. Office of Drug Abuse Policy, Executive Office of the President, Border Management and Interdiction: An Interagency Review, 1977.

This report was prepared by the Office of Drug Abuse Policy in coordination with the Office of Management and Budget. It followed a comprehensive review of federal border control and law enforcement activities. The Review Team included full-time representatives from the Departments of Justice, Treasury, and Transportation, as well as Customs, INS, and DEA.

The Review Team recommended a consolidation of Customs and INS "into a border management agency to provide control management over the key border functions and resources."[84] Such a consolidation was recommended for two principal reasons. First, the Review Team found a lack of coordinated border management.

> Each of the border agencies is responsible for a specific part of border control and each agency pursues its own mission, sometimes in competition with the other Federal border agencies and interests. When conflict between agencies appears, there is no effective mechanism to resolve the problem...[e]ven though interagency agreements exist in writing.[85]

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[82] Report at 21.

[83] Report at 21.

[84] Report at iii. The recommendation included the suggestion that the activities of Agriculture, Fish and Wildlife and the Center for Disease Control not be consolidated immediately, but be considered for future consolidation. See Report at 51.

[85] Report at 38.

The second reason for the recommendation of consolidation was a finding of considerable overlap and duplication of effort. The report found that:

> A merger of the principal border enforcement agencies would significantly reduce overlap and duplication of effort and greatly enhance the overall effectiveness of border operations. It would allow management greater flexibility in responding to peak workloads and to immediate crises. A single border management agency would also allow consolidation of management and support functions which should create significant savings.[86]

With respect to airports, the report found that "elimination of the duplicative management structure and the potential efficiences in a consolidated inspection force could improve airport inspection."[87]

In arriving at its conclusion, the report rejected three other options:[88]

1) that no consolidation be initiated, but additional funds be provided the agencies to improve their present performances;
2) that a limited consolidation take place with responsibility for ports of entry given to either Customs or INS, and responsibility for patrol of land borders given to the other agency;
3) that the consolidation of Customs and INS be augmented by the inclusion of the Coast Guard.

The report found that merely increasing funds would not cure the absence of central management and the presence of overlap and duplication of effort;[89] that a limited consolidation of specific functions would not eliminate "competition between agencies" and would "continue[d] duplication on part of the management structure;"[90] and that inclusion of the Coast Guard would raise more problems than it would solve.[91]

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[86] Report at 45.
[87] Report at 41.
[88] See Report at 46-56.
[89] Report at 48.
[90] Report at 50.
[91] Report at 56.

The mechansim for enacting the Report's recommendation for the consolidation of Customs and INS in a new agency was "an appropriate reorganization plan [which would place] the consolidated border management agency in a Cabinet department consistent with overall reorganization planning."[92]

D. President's Reorganization Project, *Reorganization Options Related to Border Management, 1977.*[93]

This draft report made findings on the status of federal border management and developed options for improvements. The premise of the report was "that improved control of the national borders could benefit the many Federal domestic programs which are linked to border activities."[94] The authors found that among the factors requiring improvement were "[s]erious problems of overlap, duplication of effort, and lack of coordination...between the two principal agencies involved at the land borders, Customs and INS."[95] The authors found that "[t]hese problems significantly hamper effective border control."[96] In the airport context, the report noted that "[n]arcotics slip through ports of entry because of the confusion and delay inherent in the duplicate inspection process carried out by INS and Customs at international airports."[97]

The report set forth four solution options which it believed were worth examining. They were very similar to those considered by the Office of Drug Abuse Policy described, *supra*. The first option was to make "no organizational change but improve coordination and increase resources to selected functions and agencies."[98] The advantages of this approach included that it was the least disruptive and permitted agencies to "continue emphasis in areas of specific expertise."[99] Its disadvantages were said to include a continuation of "the fragmented approach of the past" and "duplicative management and support structures and overlapping responsibilities with loss of economies which could result from consolidation."[100]

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[92] Report at 59.
[93] This Report was released to the public in draft form.
[94] Report at 2.
[95] Report at 4.
[96] Report at 5.
[97] Report at 11.
[98] Report at 12.

The second option was to combine and unify "the patrol functions of Customs and INS in one department (Justice or Treasury); and the inspection functions of Customs and INS in the other department (Treasury or Justice)."[101] The advantages were said to be, inter alia, an elimination of "overlap and duplication in selected functions," and "minimal disruption to existing organizational structures."[102] The disadvantages included failure "to recognize the interrelationship of patrol and inspection functions to overall border management" and continuation of "duplicative management and support structures."[103]

The third option was the establishment of a Border Management Agency containing the patrol functions of Customs and INS in one unit, the inspection functions of Customs and INS in another unit, and "the remaining functions and support activities of either Customs (if in Treasury) or INS (if in Justice)."[104] The agency (Customs or INS) no longer having inspection or patrol responsibilities would retain its organizational identity in its present department, and would continue to perform its non-border regulatory functions.

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[99] Report at 12.
[100] Report at 13.
[101] Report at 13.
[102] Report at 14.
[103] Report at 14.
[104] Report at 15.

The advantages of the approach were said to include the provision of "a single manager responsible for the major functions of inspection and patrol" and a reduction of overlap with an increase in efficiency.[105] The principal disadvantage was found to be creation of "personnel turbulence and disruption during changeover."[106]

The final option was the establishment of a Border Management Agency "combining all of Customs and INS."[107] The advantages and disadvantages were said to be essentially the same as those of the third option.[108]

Although the authors did not single out any of the options as preferable, they recognized that changes in border management policy were necessary, and that the duplicative inspection system at airports was hindering efficient narcotics control.

E. National Immigration and Naturalization Service Council, Managing Consolidated Border Enforcement Resources, 1977.

In response to a request for comments on the President's Reorganization Project's Draft described, supra, the National Immigration and Naturalization Service Council of the American Federation of Government Employees prepared a paper advocating the transfer of "Custom's Patrol Agents, support employees and equipment now deployed along both borders and the Gulf Coast and those Customs Inspectors, employees and equipment now deployed at United States ports of entry" to INS.[109] The report acknowledged that some problems would result including those associated with integrating Customs and INS supervisors, training for new responsibilities, redesigning of facilities for one-stop inspection, transferring collected duties to the Treasury Department, and adopting common overtime schedules.[110]

105/ Report at 16.
106/ Report at 16.
107/ Report at 17.
108/ Report at 17-18.
109/ See Report at 1.
110/ See Report at 1-7.

The Council was confident that such problems could be solved "with little disruption of service."[111] Apart from pointing to possible areas of temporary difficulties, the significance of the report is that knowledgeable federal government employees believed that consolidation was feasible and would enhance the federal inspection process.

F. Comptroller General, *Illegal Entry at United States-Mexico Border, Multiagency Enforcement Efforts Have Not Been Effective in Stemming the Flow of Drugs and People, 1977*.

The focus of this study was "the activities and resources of Federal agencies having direct, indirect, and supporting responsibilities for law enforcement along the United States-Mexico border."[112] The examination found "costly overlapping and poorly coordinated enforcement activities and support systems..."[113] The report emphasized that:

> Separate agencies with different orientations continue to identify the best activities to meet their missions with limited consideration for the activity of others. This has led to the development of separate but similar lines of effort that continue to dilute border coverage and impact. Little consideration is given to overall border security.[114]

The report concluded that action was needed to obtain maximum border security with available resources by minimizing unnecessary duplication and overlapping. The solution of the problem was said to include "law enforcement interdiction at every port-of-entry...handled by one agency, whether it be Customs or INS."[115] Besides managing the day-to-day operations of the ports of entry, the agency should be responsible "for the research and development of all new techniques and devices to improve detection of people, drugs, and other contraband entering illegally."[116]

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[111] See Report at 7.
[112] Report at 4.
[113] Report at 18.
[114] Report at 50.
[115] Report at 50.
[116] Report at 51.

The crux of the report was that the system of disparate federal agencies, having separate statutory responsibilities and competing for limited Congressional funds, was simply not providing the efficient and effective border management the United States required. The study recommended that Congress hold hearings and enact new legislation.

G. Comptroller General, Customs' Cargo Processing — Fewer But More Intensive Inspections Are In Order, 1978.

In view of the "rapidly increasing volume of imports", the Comptroller General examined Customs "traditional approach to inspecting cargo"[117] and found it to be inadequate. He found that the statutory requirement that Customs inspect a portion of each cargo shipment and an increasing workload had combined to "force(s) Customs either to perform very limited inspections or to seriously impede the flow of imported cargo."[118]

The report found that if "Customs is to successfully enforce the import laws and not impede the flow of cargo...it needs to adopt a comprehensive selective cargo inspection system."[119] Such a system would include "elements of scientific random selection, specific selection, and post audit(s)."[120] It would allow Customs to perform fewer, but more comprehensive inspections, and would deter import violations "because importers would never know which shipments would be inspected."[121]

117/ See Report at i.
118/ Id.
119/ Report at iv.
120/ Report at 23.
121/ Id.

H. Comptroller General, More Can Be Done to Speed the Entry of International Travelers, 1979.

As part of the Customs Procedural Reform and Simplification Act, P.L. 95-410, Congress ordered the Comptroller General to "study the clearance process for individuals entering the United States and recommend ways to expedite the process, particularly for air and sea travelers."[122/] To examine the problems of air travelers, the report concentrated on airports located in New York, Miami, and Los Angeles.

The investigators found that "air travelers, in particular, are dissatisfied with long delays, and their dissatisfaction is heightened by the comparisons they can make with foreign inspection systems, which move people much quicker."[123/] They also found that a serious lack of inter-agency cooperation contributed to delays.[124/]

The report recommended that agencies improve their cooperation, and that primary inspections be conducted "before travelers claim their checked baggage."[125/] It also recommended that "inspectors selectively inspect travelers and their possessions for agricultural products."[126/]

The report concluded that if the absence of agency cooperation continued, and the aforementioned recommendations were not implemented satisfactorily, two alternatives should be considered:

[122/] Report at 1.
[123/] Report at 6.
[124/] Report at iii.
[125/] Report at iv.
[126/] Id.

> One is to adopt the red/green system...Another is for the President, through reorganization authority, or the Congress, through legislation, to make one agency responsible for inspections.[127]

I. Comptroller General, One-Stop Inspection System Speeds the Entry of International Travelers, 1982.

In response to a request from the Chairman of the Subcommittee on Trade of the House Committee on Ways and Means, the Comptroller General monitored a six-month test of a one-stop inspection system utilized by Customs, INS, and APHIS, at airports in Miami and Los Angeles. The test was mandated by the fiscal year 1982 authorization report for Customs.[128] It was not intended to examine the desirability or feasibility of a consolidation of agencies, but merely to evaluate the test.

Under the test, travelers would go to a primary inspection station, immediately upon deplaning, without their checked baggage. One inspector would then conduct the primary inspection for all the agencies. Depending upon the results of the primary inspection, travelers would either be permitted to claim their baggage and exit through a Customs control point, or be required to undergo a more detailed inspection. Referrals for this secondary inspection could also be made by roving inspectors once checked baggage had been claimed.

The report found that this one-stop "sped the entry of travelers, and provided a more efficient use of the Customs and Immigration inspectors."[129] From a law enforcement perspective, the one-stop system resulted in an increase in seizures at one airport and a decrease at the other. Seizures of non-admissible agricultural products increased at both airports.[130]

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[127] Report at iii.
[128] Report at 2.
[129] Report at 7.
[130] Report at 12.

The report concluded that "because of the clearly demonstrated gains of the one-stop system regarding timeliness and efficiency and the uncertain and perhaps non-existent drawbacks from a law enforcement standpoint, we believe the one-stop inspection system is an improvement over the procedures used in the past."

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Each of the foregoing studies saw a need for improvement, and proposed solutions. That need continues to exist. The following section will set forth a series of options which, individually or in combination, should be considered as possible methods to improve the federal border inspection process now and in the future.

V. ORGANIZATIONAL OPTIONS AND ALTERNATIVES WITH RESPECT TO FEDERAL INSPECTION AGENCY MANAGEMENT AT AIRPORTS

Historically, airport inspection control has been exercised by the agencies charged with enforcing each separate substantive law and its related domestic program. At one time separate airport inspections were conducted by the Public Health Service (now the Center for Disease Control in the Department of Health and Human Services), Customs, INS, and APHIS. Today at many United States airports of entry, separate and largely uncoordinated inspections continue to be made by Customs, INS, and APHIS.[131]

The effect of such a narrow, program-oriented system for performing similar airport inspection functions has been waste and inefficiency, not only in the performance of the functions, but also in the need to acquire state of the art systems and facilities to support these functions, such as advanced telecommunications and computer hardware. Fragmentation of inspection control

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131/ The Center for Disease Control and other agencies may participate in the inspection process under special circumstances.

at airports has also meant a lack of overall planning, with the present disjointed organizational structure resulting all too often in the lack of any overall policy for managing the flow of travelers and goods entering U.S. gateway airports.

With regard to airports, effective control of the United States' border has a direct impact on a wide range of government programs, including narcotics control, alien regulation, contraband interdiction, and protection of the economic, health, and agricultural interests of the United States.

Customs, INS, and APHIS have separate inspection units which perform comparable duties, often in the same location, at the same time, employ similar enforcement techniques, and require similar support systems and airport facilities. The results are:

- An outdated and cumbersome federal inspection process;
- A duplication and overlap of agency functions;
- Separate and uncoordinated managers and management policies; and
- Excessive federal overhead caused by such factors as duplicative facilities, investigatory tools, and supervisory personnel.

With this background, we believe that the following options, which are presented without an order of preference, merit consideration.

A. Make no organizational change, but improve inspection techniques and agency coordination, and increase inspectors and resources for preclearance and U.S. gateway airports.

Some important improvements can be made without an overhaul of current organizational structure. Universal implementation of ASIST, the one-stop inspection process used at Los Angeles, particularly when combined with the dual channel system in place at Houston, would reduce significantly passenger inspection delays. The expedited and extensive utilization of a machine readable pasaport system would also cut processing time. Widespread employment of an automated and selective system of cargo clearance, with a concurrent simplification of forms and other paperwork, would greatly expedite the movement of freight.

Better inter-agency and intra-agency coordination on the headquarters, regional, and local level on such matters as workload, hours of service, and sharing of information would bring about improvements. Better coordination with the public is also essential. Programs establishing necessary controls on exports, for example, should require inspectors who detain a shipment to notify the shipper promptly, should assure that inspectors understand fully the nature of cargo subject to the program, and should prevent unnecessary or duplicative inspections of the same shipment. Similarly, better coordination with the airline industry in such matters as facility modification would generate greater cooperation leading to a more efficient system. When facilities are to be modified, the carriers who pay for such modifications should be consulted from the initial design stage through the final construction phase.

As noted earlier, the number of inspectors has not kept pace with the increase of passengers and freight, and current budget proposals call for a substantial decrease in inspectors. An increase in authorized inspectors, having greater access to improved computer information systems, would certainly expedite the inspection process. Greater cross-utilization of inspectors would improve the system. To a large extent, inspectors working along the contiguous U.S.-Mexican and U.S.-Canadian land borders are trained to perform the functions of each agency. That approach could be followed at international airports as well. Indeed, cross-trained inspectors are the cornerstone of the accelerated specialized inspection system which has worked so well in Los Angeles.

Implementation of the Canadian Inspection System, or variations thereon, is also worthy of consideration. Basically, it works as follows:

a) Upon deplaning, arriving international travelers proceed to a primary booth manned by a Customs inspector who has been cross-trained to perform immigration, health, and agriculture quarantine primary functions. Each traveler, whether a returning citizen, a visitor, or an immigrant is queried, and hand-carried baggage is subject to inspection by this Customs primary inspector.

b) Travelers without immigration, customs or agriculture problems proceed directly to the airline baggage carousels or belts to claim their baggage and then are free to depart from the inspection facilities.

c) Travelers having special immigration, customs, or agriculture problems are referred to a secondary inspection.

The Canadian system, then, is generally a one-stop system utilizing cross-trained Customs inspectors and providing speedy inspections and increased inspector productivity.

While not eliminating duplicative functions and management, this approach of improving techniques and coordination and increasing the number of inspectors and amount of resources could improve efficiency without the possible personnel and organizational questions prompted by a consolidation of agencies or functions, although it would require an increase in federal expenditures.

B. Establish a Single Management Concept for Airports

This approach would: eliminate the current overlap and duplication of agency functions; curtail excessive federal overhead by ending redundant facilities, investigatory tools, and supervisory positions; create a single policymaker accountable for all airport inspection performance; and provide an opportunity for initiating new approaches to the inspection process without the obstacle of differences of opinion among agencies. The Single Management Concept for Airports could be established in any of the following ways:

1. Combining the workforces of Customs, INS, and APHIS and placing the new agency in a Cabinet Department

Placement of the new combined agency in Treasury, Justice, or Agriculture would provide the obvious advantage of experience which would reduce transition problems. Each of those agencies has a substantial familiarity with the responsibilities and techniques of the other agencies, based on day-to-day operations. Each is aware of training requirements and is cognizant of the use and value of advanced technology in the performance of inspection functions.

The list of potential parents should not end there, however. Consideration could also be given to the Departments of Transportation (DOT) and Commerce.

The placement of the agency in DOT would be consistent with its statutory duties "to provide general leadership in the identification and solution of transportation problems"[132] and to regulate "air commerce in such manner as to best promote its development."[133] DOT also has experience in border management responsibilities as the supervisory Department of the Coast Guard, which was transferred to DOT from the Department of the Treasury seven years ago.[134]

Placement of the agency in the Department of Commerce would enhance Commerce's ability to meet its statutory duty to "carry out a comprehensive program designed to stimulate and encourage travel to the United States...(and to) encourage the simplification, reduction, or elimination of barriers to travel, and the facilitation of international travel generally."[135] Commerce is familiar with border management issues through its export control and foreign trade data obligations which are carried out with the assistance of Customs.[136]

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[132] See 49 U.S.C. §1651(b)(1).
[133] See 49 U.S.C. §1303(a).
[134] See 49 U.S.C. §1655(b).
[135] See 22 U.S.C. §2122(i), (4).
[136] See 19 C.F.R. §161.2(a)(5).

From a Congressional oversight perspective, the new agency would be subject to a single budget, instead of three, and one, instead of three committees in each body of Congress. Placing the new agency in any single Department would necessitate the combination and transfer of federal employees, which could create employee dislocations and administrative difficulties. Such concerns would have to be weighed along with the potential benefits to the inspection process and the traveling and shipping public.

2. Combining the workforces of Customs, INS, and APHIS to create a new, independent "United States Inspection Service."

As with the previous option, this approach would establish a single manager eliminating overlap and duplication, and establishing clear accountability for inspection performance. By ending inter-agency problems with coordination, and competition, it would enhance efficiency and effectiveness. It would also be subject to the same budgetary and Congressional committee considerations. While, for the purposes of this analysis, its jurisdiction would not extend beyond airports, it is possible that such an agency could assume the entire federal inspection duty.

Since no one agency would be either "submerged" or "surviving", inter-agency disputes based on tradition and loyalty would be less likely to surface. It would be anticipated that identical salaries and fringe benefits including a standard inspector uniform would be adopted under this program.

Other than for cross-training, there would be no need for training programs in view of the experience of the staff. The problems associated with employee transfers, such as reconciling seniority disputes, would probably exist. Some administrative problems, inherent in establishing any new agency, would no doubt arise, but should be minimized because of the experienced workforce.

3. Establish a private or quasi-governmental organization to perform the functions of the inspection agencies.

Another concept would be a contractual arrangement with a private entity or establishment of a quasi-governmental organization. In either case, new legislation would be necessary. Under this approach, Congress could authorize a private entity to perform the inspection functions. At airports today, the airline industry is required by federal laws and regulations to conduct inspections designed to prevent air piracy and crimes aboard aircraft. In addition, experts from the private sector perform vital governmental air safety functions as designated engineering representatives and examiners under authorization from the FAA. One, or several other private entities, could be empowered to perform other inspection functions.

Unencumbered by years of traditional governmental inspection methods and management, a private or quasi-governmental entity could generate fresh ideas and new techniques to accomplish the statutory objectives. The entity could be supported, for example, under contractual arrangements funded by duties collected.

This option could provide the following advantages: elimination of current duplication and overlap; installation of a single manager with total accountability for performance; existence of profit incentive as motivation for greater productivity and efficiency; and reduction of federal budget requirements. Skeleton federal staffs would have to be available to exercise federal enforcement and arrest powers. Disadvantages could include federal employee dislocations, administrative problems inherent in any new organization performing a complex task, and the absence of a readily available fully-trained workforce. This option would be difficult to implement, and would be controversial.

C. Establishment of an Interagency Facilitation Board

An alternative to the consolidation and transfer approach is the creation of an Interagency Facilitation Board. This Board would oversee the federal inspection process of passengers and cargo at U.S. gateway airports-of-entry and preclearance airports to insure that the most expeditious procedures are followed consistent with inspection agency enforcement requirements. Although such a concept would not solve all inter-agency differences and would not achieve the efficiency and productivity increases, and potential cost savings, of a consolidation, it would be a step in the right direction and could lead to an eventual consolidation of the agencies.

The Interagency Facilitation Board would select a Chairman from a panel comprised of the Secretaries of State, Commerce, Transportation, Treasury, Agriculture, and the Attorney General to serve a two-year term. The Chairman would be responsible for the coordination of the several inspection agencies in developing and implementing an efficient passenger and cargo processing system.

Each agency would provide an equal number of management specialists who would comprise a select management group, divided into regional teams to oversee the inspection operations of INS, Customs, and APHIS at the airports-of-entry and preclearance airports within their particular region.

The individuals making up the management teams would be given management authority over all inspector personnel so that maximum efficiency in carrying out the inspection process would be realized. Congressional oversight for the proper functioning of the combined inspection process (i.e., Customs, Immigration, and Agriculture) would be given to the Government Operations Committees with primary legislative authority to the appropriate jurisdictional committees.

Under this approach, leadership would be provided at the working level where the coordination problems actually exist; the cost of providing several management specialists from each agency would be minimal, budgetary impact on any one agency would be less; and each agency would maintain its own identity, responsibility, expertise, and authority.

Congressional committees would maintain oversight authority over the individual inspection agencies. The Board would be required to report annually to the President. Finally, the Interagency Facilitation Board could serve as a working model and intermediate step to the eventual consolidation of Customs, Immigration, and APHIS into a single inspection agency.

D. Assign to One Existing Agency Responsibilities to Process Air Travelers and to Another, Responsibilities to Handle Air Freight.

The concept of separate "people" and "freight" airport inspection agencies may have appeal because it would be simple to implement and is a straightforward alternative. Basically, the concept envisages one inspection agency to be solely responsible for the processing of all air travelers and their baggage entering U.S. gateway airports or at pre-clearance airports. The second agency would have complete responsibility for the processing at airports of all goods and merchandise other than that accompanying air travelers. One possible complicating factor is that some freight is carried by passengers acting as couriers.

This approach recognizes that people and their baggage are different from freight and merchandise, and that different inspection facilities, techniques, and objectives apply. It should be noted that over twenty-five percent of arriving air travelers are processed at preclearance locations, but no freight is processed at these locations. A continuation of the passenger preclearance process under this option, as well as all other options, is necessary.

Under this concept, APHIS would continue to perform its functions. This option would result in the continued existence of several inspection agencies, but it would eliminate some duplicative effort, permit better scheduling for peak workloads, and avoid employee dislocations caused by consolidations.

* * * * * *

No option has addressed the transfer or consolidation of the Drug Enforcement Administration or its functions. DEA's activities at airports are of a different nature than those of the primary inspection agencies, and are outside the scope of this analysis. Similarly, other agencies, such as the Fish and Wildlife Service and the Center for Disease Control should be able to accomplish their statutory objectives without any difficulty should any of the foregoing options be adopted.

VI. RECOMMENDED METHOD OF PROCEEDING

The national policy to encourage and strengthen U.S. international travel and trade requires immediate and longer term actions to improve federal inspection services at gateway airports.

This analysis reviews the federal inspection system, current regulatory responsibilities, previous reports and studies on inspection agency management, and explores possible interim relief measures as well as organizational options. Its prompt consideration by appropriate agencies of the federal government and committees of Congress is both needed and urged.

Also needed and urged are definitive plans and schedules for the immediate and longer term actions necessary to improve federal inspection services. The following method of proceeding is recommended:

A. Prompt appropriation by this Congress of sufficient funds to assure an adequate number of federal inspectors at U.S. gateway airports and firm direction to federal inspection agencies to assign such inspectors in a manner consistent with passenger and cargo traffic demand.

B. Within the next 60 days, action directed by a Presidential Executive Order or by Congressional Resolution to require federal inspection agencies to:

- provide equal priority in the performance of their duties to the facilitation of international air commerce and law enforcement;
- initiate action to implement a one-stop inspection procedure for passengers at all U.S. gateway and preclearance airports;
- develop plans for the installation of an automated system for selective cargo examinations and entry processing at all U.S. gateway airports;
- expedite efforts to utilize machine readable passports and implement a similar system for machine readable visas and border crossing cards; and
- improve coordination of necessary controls on export shipments.

C. Within the next 60 days, appointment of a high level panel to report within 90 days on how to reorganize the federal inspection agencies or implement other procedures to increase efficiency and productivity which would assure that the need to facilitate international air commerce is met for the remainder of this century. Such a panel might include Secretaries from the appropriate Departments, members of Congress, representatives from the White House and OMB, and leaders from national organizations, both public and private, directly interested in this endeavor.

The airline industry stands ready to provide any assistance which will promote progress in this important effort.

No Quick Fix

What happened to the all-out war on drugs that the federal government declared a year ago? It's been slowed by interagency squabbling, and the drugs are still flowing in.

BY W. JOHN MOORE

From the beginning, Operation Blue Lightning stumbled. The starting date was moved up 72 hours because drug-runners got advance warning about the Miami-based operation through a breach in security. Its radar surveillance system, mounted on condominium rooftops on the Florida coast, has limited range and difficulty detecting small aircraft used in smuggling. On the high seas, communications were hampered because the Coast Guard operates on a different radio frequency than the Customs Service does, and so headquarters couldn't contact Coast Guard vessels working the same waters as Custom's interceptor boats.

Moreover, the Blue Lightning operations center, overwhelmed by marine traffic, can pursue only a fraction of suspicious targets.

Blue Lightning hardly qualifies as a flop. Drug shipments through South Florida have been curtailed. Nevertheless, the operation's startup problems may symbolize the difficulty in winning the war on drugs proclaimed so loudly last year. Flawed in conception and marred in execution, critics say, the antidrug effort has bogged down in a quagmire of bureaucratic snarls, political infighting and budgetary constraints.

Richard A. Bloom

Associate attorney general Stephen S. Trott
The United States has achieved major victories "on every front."

"We've declared war on drugs, but instead of it being World War II, it's Vietnam. The resources are not being committed to win," said James B. McNulty, executive director of the National Conference of Democratic Mayors. In the Blue Lightning case, said Peter A. Johnson, a drug control expert and senior associate at the congressional Office of Technology Assessment (OTA), "The real difficulty was that the operation was put into place with no real goals or evaluation plan."

Capt. G.F. Crosby, the Coast Guard's deputy chief of operations, conceded that his agency was "maybe not as involved as we should have been" in that operation. The Coast Guard is equipping more vessels with radios that can receive Customs traffic, he said, and radar problems are also being addressed.

Only a year ago, in a frenzy of pre-election oratory, Congress and President Reagan competed in promising to wage a war on drugs no matter how high the costs or how great the burdens. Both pledged a full-scale assault by mobilizing the full resources of the federal government. Proof of that commitment was the $1.7 billion antidrug statute, the 1986 Antidrug Abuse Act, which attacked the whole panoply of problems: production of drugs abroad, interdiction at the border, enforcement on the street, education in the school, testing in the workplace, treatment in the clinic and prevention at home. It increased penalties for some drug-related crimes and authorized law enforcement grants to the states for drug enforcement efforts.

"Drug use is too costly for us not to do everything in our power, not just to fight it, but to subdue it and conquer it," Reagan said as he signed the bill.

But only true optimists expected dramatic results in 12 months. And nobody concedes defeat. But last year's rhetoric has collided with this year's reality. "There was this enormous amount of hype, but nothing seems to have happened," said David F. Musto, a professor of psychiatry and history of medicine at the Yale School of Medicine.

One reason is money. Ninety days after signing the bill, Reagan submitted a fiscal 1988 budget that signaled an early retreat. He proposed cutting $1 billion out of the fiscal 1988 drug budget. His budget proposed to eliminate the entire $225 million for state and local drug enforcement efforts, cut the drug treatment money in half and slash drug education money for the states in fiscal 1988-89 from $500 million to $100 mil-

Richard A. Bloom

Karst J. Besteman of the Alcohol and Drug Problems Association
Politicians don't like long-term commitments to solving problems.

lion. Although Congress was even more vocal than the President last year in urging the war on drugs, it is now evident that less money than promised will be made available.

Karst J. Besteman, the executive director of the Alcohol and Drug Problems Association in Washington, called the Administration's budget a "repudiation" of Reagan's earlier speeches on the drug crisis. "The President said this was the first shot across the bow," Besteman added, "but he didn't even let it be a complete shot."

Many city and local governments have a more immediate problem. Although the 1986 law promised millions of dollars in federal aid, almost none have trickled down. Only 17 municipalities have received any money from last year's bill, according to a U.S. Conference of Mayors survey of 42 cities in October.

The states can be blamed for part of the problem. No state has distributed any portion of the $225 million in grant money for law enforcement assistance, although the Education Department released $200 million. Even if they get law enforcement money, major drug areas such as Dade County, Fla., New York and Los Angeles may receive smaller amounts under state aid formulas than they expected.

"You're seeing what happens when you call it a drug reform act, give it a few dollars and run the money through the statehouses," said J. Thomas Cochran, executive director of the U.S. Conference of Mayors.

INTERAGENCY STRIFE

The most damaging criticism of the war on drugs has focused on the internecine strife among federal drug busters.

Every year, for example, narcotics experts await publication of the federal government's ultimate source of statistics on the nation's drug problem. But disagreements between the Justice Department's Drug Enforcement Administration (DEA) and the Health and Human Services Department's National Institute on Drug Abuse delayed publication of a 1986 report for almost a year. And now that the numbers are out, another controversy has arisen: The figures on marijuana consumption don't square with other data.

By jiggling the numbers, the multiagency National Narcotics Intelligence Consumers Committee (NNICC) reported that marijuana use dropped by almost 4,000 tons (or 8 billion joints) from 1984-85. Meanwhile, the report said, the amount of marijuana available for consumption rose dramatically, but it gave no explanation for the disparity between consumption and supplies.

Such disputes reflect more than a simple spat among government bean counters. "The new NNICC report," according to Peter Reuter, a senior economist at the Rand Corp. in Washington, "shows that the federal agencies have little idea of the scale of the problem with which they are dealing and are unable to measure how well they are doing. It is not even clear they can tell whether matters are getting better or worse from year to year."

Congressional critics have argued that despite a boost in the interdiction budget (from $394 million in fiscal 1981 to $1.3 billion in fiscal 1987) and increased seizures, the antismuggling effort suffers from a lack of coordination between the Treasury Department's Customs Service, Justice's DEA, FBI and Border Patrol and the Transportation Department's Coast Guard.

Rather than giving any agency exclusive responsibility over air interdiction efforts, for example, Customs and the Coast Guard share it—an uneasy and expensive alliance, some critics say. "We now have two Air Forces in the war on drugs," Senate Judiciary Committee chairman Joseph R. Biden Jr., D-Del., complained in an interview.

"Current federal antidrug abuse efforts are characterized by overlapping jurisdictions, uncertain leadership and 'turf battles' that frustrate the success of many anti-narcotics programs," said a June report by the House Government Operations Committee. *(See box, p. 2958.)*

Doubts are also growing that the strategy for winning this war will work. Many narcotics experts believe the Reagan Administration and Congress have devoted too many resources to limiting the supply of drugs while virtually ignoring the demand side of the equation. "Reagan has decided to Rambo drugs out of existence," said Msgr. William O'Brien, director of Daytop International, a New York drug treatment center.

From fiscal 1981-88, total spending on federal drug control activities tripled, from $1.2 billion to $3.9 billion. But spending on treatment and prevention declined from $200 million in 1982 to $126 million in 1986. A Customs Service study in October seems to bolster the argument for more treatment money. A dollar spent on treatment and education reduces cocaine consumption by 1.6 per cent while a dollar spent on federal law enforcement cuts cocaine use by only 0.24 per cent, its numbers showed.

Battle-weary experts promise no easy victories. "This is a siege," said Rep. Larry Smith, D-Fla., chairman of the Foreign Affairs Committee's Task Force on International Narcotics Control.

"Anybody who expects to see a win after a year better start following the National Basketball Association," snapped associate attorney general Stephen S. Trott.

PATROLLING THE BORDERS

As the narcocop on the beat, the Administration has devoted most of its resources to a quest for ever-bigger drug busts at the border. The Administration's antismuggling effort was supported by budget increases, with $1.37 billion in fiscal 1987 (35 per cent of the federal drug abuse budget) assigned to that program.

Even the military was mobilized to assist civilian law enforcement agencies. In fiscal 1986, for example, U.S. Navy E2 aircraft flew 370 surveillance missions in support of interdiction efforts. According to a General Accounting Office (GAO) report in June, the cost of the Defense Department's interdiction efforts jumped from $4.9 million in fiscal 1982 to an estimated $387 million in fiscal 1987, mostly as a result of direct appropriations in the 1986 antidrug law. *(See NJ, 9/6/86, p. 2104.)*

These enforcement efforts are a success, Administration officials insist. "You're looking at a geometrical progression in terms of the ability of law enforce-

U.S. Tries to Cut Foreign Production . . .

Jose A. Gonzalez Fernandez, a law adviser at the Embassy of Mexico
"Mexico is very aware of the problem," but is not a cocaine producer.

Susan M. Muniak

Since the 1909 Shanghai Treaty, when the United States pestered the Great Powers in China to limit opium production, international narcotics control efforts have remained a centerpiece of U.S. drug policy.

"America's international drug control program seeks to break the chain that links farmers in those drug-producing countries to users in the United States by stopping the flow of drugs as close to the source as possible," the National Drug Policy Board said in its latest report.

Several provisions in the 1986 Antidrug Abuse Act reflected this continuing faith in the efficacy of curbing foreign production. The State Department was directed to enter negotiations to establish a Mexico-U.S. Intergovernmental Commission on Narcotics and Psychotropic Drugs. The law authorized an extra $53 million in fiscal 1987 for international narcotics control assistance. Along with the carrots came the promise of a big stick: Half of U.S. foreign aid to a nation producing drugs or trafficking in narcotics would be withheld until the President certified that it was trying to limit production or restrict exports.

So far, the State Department has decertified only Afghanistan, Iran, Laos and Syria—none of which were receiving any U.S. aid. Rep. Charles B. Rangel, D-N.Y., and New York Mayor Edward I. Koch have blamed the drug crisis in part on the department's apparent reluctance to sanction major drug-producing countries such as Colombia, which gets $7 million annually in nonnarcotics assistance.

Such complaints irk Ann B. Wrobleski, the assistant secretary of State for international narcotics matters, who argued that Colombia is waging a brutal internal war with narcotrafficantes. "We owe them our absolute support," she said. "I'd like to talk to Mayor Koch about sanctioning New York" for its failure to regulate drug paraphernalia or establish enough treatment centers. "Politically, it's very easy to sit behind your desk in New York or Washington and kick around the Third World," she added.

Over the past decades, neither threats nor financial aid has led to a dramatic downturn in the drug supply. Eradication and crop substitution efforts have achieved only modest success. "It's frustrating," said Rep. Larry Smith, D-Fla., chairman of the Foreign Affairs Committee's Task Force on International Narcotics Control. "If you look at the availability of the stuff on the streets, you have to be disappointed."

Mexico, with its 2,000-mile border with the United States, gets attacked for what critics charge is a lackluster effort to control drugs or production. The Administration's National Narcotics Intelligence Consumers Committee, in a June report on foreign drug supplies, fingered Mexico as the pro-

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ment to function in the global dimension," Trott said. "On every front, eradication, extradition, mutual legal assistance treaties, defendants in jail, organizations destroyed, assets seized, capabilities demonstrated," the United States has achieved major victories, he said.

Some federal enforcement efforts are unqualified success stories. In May, the DEA completed the largest undercover operation in federal drug enforcement history. Over three years, Operation Pisces led to the seizure of more than 19,000 pounds of cocaine with a wholesale value of $270 million.

Operation Alliance, a multi-agency task force based in El Paso, Texas, was created last year to stop the influx of drugs along the southwestern border with Mexico. Alan E. Eliason, senior tactical coordinator for the project, said that the amount of marijuana seized in fiscal 1987 was double the year-earlier figure and that the amount of cocaine captured was four times greater.

As a result of interdiction efforts, federal drug agencies seized 27 tons of cocaine, a half ton of heroin, 9 tons of hashish and 1,106 tons of marijuana in 1986, the GAO study said.

But that was only a tiny fraction of the drugs that entered the U.S. market. Many drug abuse experts believe that interdiction efforts may stem only 3 per cent of marijuana imports and 10 per cent of cocaine imports. The deluge of imports continues. From 1984-86, cocaine imports more than doubled, to 60 metric tons, and heroin imports rose by about 50 per cent, to 6 tons.

In its October report, the Customs Service said that its antismuggling efforts provided a much bigger bang for the buck than did drug investigations undertaken by other agencies after drugs arrived in this country. That conclusion was not shared by the DEA, which leads the fight inside U.S. borders.

"Some of the conclusions give me pause because they don't square with my experience or knowledge," said DEA assistant administrator David L. Westrate.

Despite their high expense and visibility, such government efforts may play a limited role in stemming the influx, some experts say. In a gloomy assessment of the border war, the OTA found "no clear correlation between the level of expenditures or effort devoted to interdiction and the long-term availability of illegally imported drugs in the domestic market." *(See box, above.)*

The OTA pinpointed several reasons for pessimism. The profitability of drug smuggling, the worldwide glut in drugs and the fact that producers prefer to sell drugs to U.S. consumers (because of heavy demand and premium prices) mean that "interdiction alone will probably

. . . But Drugs Keep Coming to Users Here

ducer or supplier of increasing amounts of opium, cocaine and marijuana. Imports of Mexican marijuana soared from 20 per cent of the U.S. supply in 1984 to 32 per cent in 1985, with only a slight decline last year, the report said, and imports of Mexican heroin rose from 32 per cent of U.S. supply in 1984 to 39 per cent in 1985.

Some Members of Congress favor using diplomatic muscle to press Mexico for stronger action. But the State Department is unlikely to do that, partly because U.S.-Mexico relations cover other issues—such as debt, energy and immigration—that it regards as at least as important as drugs.

Defenders of Mexico note that it has boosted enforcement efforts during a period of economic distress, deploying 25,000 soldiers to combat drug trafficking. "Mexico is doing a credible job," associate attorney general Stephen S. Trott said, noting that Mexico permits the U.S. Drug Enforcement Administration to operate within its borders.

Jose A. Gonzalez Fernandez, a law adviser at the Mexico Embassy, acknowledged that "Mexico is very aware of the problem" but noted that his country is not a cocaine producer. "We must look to the social and political and economic causes of the crisis in all countries." Nor has Mexico caused the delay in establishing the intergovernmental commission promised by last year's drug law, he said.

Other producers of heroin, cocaine and marijuana pose difficult problems for the U.S. government. From Burma, there are persistent rumors that the government has used American planes provided for drug eradication efforts to spray dangerous chemicals on insurgents. State Department officials discount those allegations.

New concerns have also arisen about alleged connections between left-wing terrorists and drug traffickers. In Peru, the Sendero Luminoso (Shining Light) guerrillas, a radical Maoist group, may be working with drug traffickers in a remote valley; in the past two years, 27 drug eradication workers have been killed in the area.

In Colombia, the problem is worse. "Colombia narcotraficantes and guerrilla insurgents have what we see as a marriage of convenience," Wrobleski said. The guerrillas protect the cocaine dealers' cartel operation, and the dealers deliver guns and money to the guerrillas—who also impose a tax on coca and coca paste moving through their territory, she said.

Even Western Europe may not be immune to narcoterrorism. In June, French police arrested 57 persons after finding an arms cache and a supply of heroin in the Fontainebleau forest outside Paris. French police and U.S. drug experts worry that the incident may signify a willingness on the part of terrorists to finance their efforts with drug money rather than riskier bank robberies or kidnappings. Terrorists in Iran, Iraq and Lebanon may be swapping drugs for Warsaw Pact weapons, they add.

Not all the news is negative. In some countries, there were successes in curbing production from 1985-87. More than 85 per cent of Colombia's marijuana crop was eradicated. Hashish production in Afghanistan and Pakistan is down. Pakistan has reduced opium production. The largest seizure ever of heroin took place in India: More than 600 kilograms was nabbed in 1986 shortly after its arrival from Pakistan. Turkey has achieved the most impressive results, slashing poppy production from 800 tons in 1979 to 45 tons in 1984.

But crop eradication efforts can be doomed simply by economic and cultural differences, especially in countries where moderate drug use occurs. A $7 million drug eradication program in Bolivia proved a failure. "Coca to the Indians in Bolivia is like baseball to Americans," Trott said.

Nor is crop substitution a proven winner, warns Peter Reuter, an expert on drug policies with the Rand Corp. in Washington. That's based on the theory that peasants will shift from growing coca if the government guarantees the same price for other commodities, he noted. But the assumption that the coca price won't go up is questionable. Coca accounts for only a small portion of the cost of cocaine. Drug overlords can simply raise coca prices to entice more production, Reuter said.

never result in more than a short-term or relatively small reduction in drug availability," the report said.

Rand Corp. analyst Reuter, who is completing a report on interdiction for the Defense Department, said that federal agencies are probably catching more drugs than they used to but that even a substantial increase may not cut drug use. If drugs are cheap when seized, he reasons, busts on the high seas or on the Mexican border only marginally affect the replacement price. Only extremely high interdiction rates that choked off most supplies would force prices up enough to discourage consumption, he said. "That is sort of the heart of the interdiction problem," Reuter said.

Even a success story can turn into a failure as savvy smugglers seek safer routes. Because of stepped-up enforcement in the Caribbean, a third of cocaine shipments now come into the United States through Mexico, the DEA's Westrate told the Foreign Affairs Committee's task force at an Oct. 7 hearing.

"Now that's got a serious downside, other than it opens a second major theater for us to address, which is the southwestern border," Westrate added. "It has also produced a strong linkage between the Colombia major drug organizations and Mexican major organizations—a connection we did not have before. And I think that clearly this is something that's going to cause us fits in the next couple of years."

SLOW CHANGES

Last year, the death of basketball star Len Bias and the epidemic of a potent new cocaine derivative known as crack created not just a demand for reform but a call for a holy war against drugs. But public hostility to narcotics—such as cocaine, once deemed by many to be perfectly safe—may be just another turn on the binge-to-remorse cycle that marks America's views toward drugs. After the Roaring Twenties, for example, narcotics again were damned as evil incarnate. "Drug addiction," warned reformer Richmond Hobson in a 1928 national radio address, "is more communicable and less curable than leprosy."

If past reform campaigns are any guide, those expecting immediate results will be disappointed. Attitudinal shifts often occur a decade before a dramatic decline in drug use shows up, according to Musto of Yale. The belief that Congress could pass a multibillion-dollar antidrug bill last year and that consumption would drop sharply this year "was totally unrealistic," he said.

Yet the public's changing views herald good news. "We are becoming more intolerant of drugs," Musto said, and that has begun to affect middle-class consumption.

Do We Need a Czar to Lead This War?

Susan M. Muncak

Donald Ian Macdonald, presidential assistant for drug abuse policy
"My guess is that you will see . . . more emphasis on [reducing] demand."

Victory in the war on drugs may depend on the federal government's ability to coordinate the activities of three dozen agencies. But despite continued tinkering, recent Presidents haven't found the right organizational structure. "This failure," a recent House Government Operations Committee report said, "has plagued the nation's antidrug abuse efforts for more than 25 years."

President Johnson established a Bureau of Narcotics and Dangerous Drugs in the Justice Department. President Nixon followed in 1971 with his Cabinet Committee on International Narcotics Control (with the Secretary of State as chairman) and the Special Action Office for Drug Abuse Prevention, and, in 1973, formed a Drug Enforcement Administration at Justice. Congress set up an independent Office of Drug Abuse Policy in 1976. President Carter in 1978 put that office into his White House domestic policy staff.

Since 1984, President Reagan has centralized antidrug operations in the National Drug Enforcement Policy Board. A March 1987 executive order expanded the board's authority by giving it jurisdiction over drug treatment, education and prevention as well as enforcement. Chaired jointly by Attorney General Edwin Meese III and Health and Human Services Secretary Otis R. Bowen, the 17-member board, which meets monthly at the White House, includes all Cabinet members and representatives of the CIA, the Office of Management and Budget and the Office of the Vice President. Two coordinating groups—one for enforcement efforts, the other for health and prevention issues—handle many daily operations.

Despite its membership, the board is often criticized. The General Accounting Office, the Congressional Office of Technology Assessment and even the President's Commission on Organized Crime have complained that the war on drugs is hampered by a lack of direction from the top. Its major achievement so far was an agreement to spend more on prison construction.

"As a result of the National Drug Policy Board's failure to meet its responsibilities, agency disputes have been left to simmer, the board has left budget duties unfulfilled and federal policy is often unclear," said the Government Operations Committee's June report.

Some Members of Congress advocate naming a war-on-drugs "czar" with Cabinet-level clout and direct access to the President. Senate Judiciary Committee chairman Joseph R. Biden Jr., D-Del., and Rep. Charles B. Rangel, D-N.Y., chairman of the Select Committee on Narcotics Abuse and Control, have introduced bills to designate a presidential appointee to lead the antidrug effort. "There will never be a war on drugs until we have a full-time, top-level commander," Biden said.

Yet prospects for passage remain uncertain, particularly in the Senate. Strom Thurmond, R-S.C., has threatened to add a provision, which Biden opposes, mandating the death penalty for certain drug-related crimes.

Administration officials remain opposed to the idea of a czar. When a similar proposal was put into the 1984 Comprehensive Crime Control Act, Reagan vetoed the legislation. The policy board emerged as a compromise. Meese told the Senate Judiciary Committee in May that Biden's bill would set back the antidrug effort "by a minimum of two to three years." Better that Congress consolidate the 32 committees and subcommittees with jurisdiction over narcotics issues, Meese added.

Associate attorney general Stephen S. Trott was more emphatic in his denunciation. "I find it unusual in a democratic society with a Cabinet form of government," Trott said, that many people would endorse "some concept that comes out of a place like Russia and that we would begin to look for totalitarian answers to things."

Trott also expressed doubt that any appointed official, regardless of title, would be authorized to tell a Cabinet member what to do. "And if we had that person," Trott said, "he would function exactly like the head of the National Drug Policy Board does now."

Some congressional experts on narcotics control appear willing to give the Administration the benefit of the doubt—at least for now. Rep. Glenn English, D-Okla., for example, reasons that legislation forcing another bureaucratic reorganization could slow the war on drugs. He called the drug czar legislation "a last resort."

English also said that the board may soon implement a comprehensive antidrug strategy. "For the first time, we may really see from the policy board a real working plan for the entire federal government," he said. After enactment of the 1986 Antidrug Abuse Act, he said, "it is critical that we have a single plan and have everybody reading off the same sheet of music."

Donald Ian Macdonald, special assistant to the President for drug abuse policy, said that the Cabinet is holding a series of meetings to devise an integrated strategy. "My guess is that you will see some change in direction," he predicted. "I'm sure you'll see more emphasis on [reducing] demand." Tough proposals to punish drug users may be in the offing, Reagan Administration officials said.

Marijuana consumption among high school seniors has dropped sharply since 1978, when 11 per cent of that group used the drug daily; in 1986, only 4 per cent did so, according to the University of Michigan's Institute for Social Research. But cocaine, and especially crack, is a different story, warned Lloyd D. Johnston, the institute's program director, "with no evidence of a downturn so far." Worse, the numbers of persons who are reporting trouble with cocaine, are trying to quit and failing or are smoking cocaine—which is more dangerous than sniffing it—have increased. "There is sort of an epidemic within an epidemic," Johnston said.

Rep. Charles B. Rangel, D-N.Y., chairman of the Select Committee on Narcotics Abuse and Control, in September released a National Institute on Drug Abuse report on 20 cities that, he said, revealed major increases in consumption. Several cities, the report said, indicate "continuing and sometimes increasing abuse of heroin." Emergency room records of cocaine abuse rose dramatically in Dallas, Phoenix and Seattle. Demographic data in the study indicated a drop in middle-class drug consumption but continued high use in inner cities—prompting concern among some experts that the result could be a tougher attitude toward users and less interest in education, treatment and prevention.

Former DEA chief Peter B. Bensinger, although he believes that more money for prevention and treatment programs is needed, says that a get-tough policy is also required. "Drug dealers are less frightened of the death penalty than of users going to jail and reducing demand," said Bensinger, now a Chicago consultant on alcohol and drug abuse.

LOCAL LETDOWN

The Administration's decision not to seek reauthorization of the almost $1 billion worth of law enforcement, education and treatment money promised in the antidrug law had a psychological as well as a direct fiscal impact. The cessation of generosity left drug control officials uncertain about getting federal dollars they believed would be forthcoming over a three-year period. "So the immediate signal that the Administration sent out after passage of this really massive drug package," said Besteman of the Alcohol and Drub Problems Association, "was, 'Watch out everybody, this may be a onetime-only phenomenon.'" As a result, he said, drug-treatment professionals avoided long-term commitments, such as hiring additional staff or expanding treatment capacity.

Meanwhile, the demand for treatment grows. Daytop's O'Brien said his waiting list has grown from 613 last year to more than 1,200.

White House adviser Macdonald rejected charges that the Administration reneged on its antidrug commitment by failing to sustain spending for drug abuse programs. He maintained that White House officials never envisioned that the spending under the 1986 law would continue at the first year's level. "There obviously was at least a misunderstanding in what the Administration intended to do with the supplement a year ago and what some people thought the President had proposed," Macdonald said. "We were talking about putting up money for one-time operations," he said, noting that spending on drug abuse programs has gone up sharply in the Reagan years.

Congress appears willing to reauthorize some but not all of the money in last year's drug bill. The Senate has appropriated $250 million for drug education programs while the House voted for $200 million, both close to the level in the 1986 bill. But Congress may approve only about $75 million in state and local law enforcement grants, down from last year's $225 million.

Nevertheless, local officials are embittered by what they regard as a change of heart in Washington. "The mayors are quite frustrated," said Judy Chesser, director of New York City's Washington office. "This is an emergency that the federal government is not taking very seriously. Everybody acts like this is yesterday's issue."

Richard A. Bloom

Rep. Larry Smith, D-Fla.
There'll be no easy victories in the war on drugs.

Congress and the Administration have said that state and local governments can live without the extra money in the new fiscal year because they never spent all of last year's money anyway. But local officials and drug abuse program experts say that the federal government deliberately delayed giving some money until the close of fiscal 1987. New York and California, for example, did not receive law enforcement grants until Sept. 30, the last day of the fiscal year.

The delays have also given local officials another opportunity to gripe about a block grant system that relies on states to distribute money rather than giving it directly to local governments that may need it most.

Nor are major cities with severe problems assured of getting a lion's share of the money, given the latitude that the states have in allocating the federal dollars. In California, drug abuse experts have estimated that a fourth of the state's drug problem is in Los Angeles. But the city must stand in line along with every other municipality. "I'm just like Vanna White," said Rose M. Ochi, criminal justice planning director of Los Angeles. "I'm telling my narcotics division that we are just spinning the wheel of fortune and hoping we are selected."

If there is any benefit to the setbacks suffered in the year since the anti-drug law was enacted, it is the growing recognition on all sides that the promises of a quick victory were premature. No matter what the Administration did or did not do, many drug abuse experts now acknowledge, the task will take time.

The problem, Besteman said, "won't be fixed on anyone's watch." He added: "Since 1980, there has been some progress. But to turn that behavioral pattern around in anyone's four-year term as President or six-year term as Senator" won't happen. "It takes a long-term commitment, and long-term commitments are unpopular issues for politicians."

As the perception grows that controlling drug use may be more of an evolutionary than a revolutionary process, even enforcement officials disdain predictions of a quick fix. As Trott put it: "The market has to burn out before we can drive a stake through the heart of the drug vampire and close the coffin." ☐